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# **Missouri Department of Transportation**

## **Disadvantaged Business Enterprise Program**

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*June 2001*

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# Disadvantaged Business Enterprise Program

## Policy Statement

The Missouri Department of Transportation (MoDOT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. MoDOT has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, MoDOT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy and commitment of MoDOT that disadvantaged businesses, as defined in 49 CFR Part 26, shall have a level playing field to participate in the performance of contracts financed in whole or in part with federal funds. It is also the policy of MoDOT to:

- ❖ Ensure nondiscrimination in the award and administration of USDOT assisted contracts;
- ❖ Create a level playing field on which DBE firms can compete fairly for USDOT assisted contracts;
- ❖ Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- ❖ Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE firms;
- ❖ Assist in the removal of barriers to the participation of DBE firms in USDOT assisted contracts; and
- ❖ Assist in the development of firms to enhance the ability to compete successfully in the market place outside the DBE Program.

The External Civil Rights Administrator has been designated as the DBE Liaison Officer. In that capacity, the administrator is responsible for the implementation of all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the MoDOT in its financial assistance agreements with the USDOT.

MoDOT will advise each contractor, through contract specifications, that failure to carry out these requirements shall constitute a breach of contract and may result in termination of the contract, or any such remedy that MoDOT deems appropriate. MoDOT will require all employees and agents to adhere to the provisions of 49 CFR Part 26.

MoDOT shall annually submit to the Federal Highway Administration (FHWA) overall goals for the participation of DBE firms for a one year period of time. The goal shall be analyzed, and adjusted if necessary, at the end of each federal fiscal year.

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Director

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Date

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## Definitions

**Affiliation** has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

- (1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
  - (i) One concern controls or has the power to control the other; or
  - (ii) A third party or parties controls or has the power to control both; or
  - (iii) An identity of interest between or among parties exists such that affiliation may be found.
- (2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

**Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlakla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

**Alaska Native Corporation** (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

**Compliance** means that a recipient has correctly implemented the requirements of this part.

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.

**Department** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

## Definitions (cont.)

**Disadvantaged Business Enterprise** or **DBE** means a for profit small business concern:

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**USDOT Assisted Contract** means any contract between a recipient and a contractor (at any tier) funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**Good Faith Efforts** means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

**Immediate Family Member** means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

**Indian Tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States Department of Interior, Bureau of Indian Affairs to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. Recognition by any other United States agency will be considered on a case-by-case basis. See definition of "tribally-owned concern" in this section.

**Joint Venture** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

## Definitions (cont.)

**Noncompliance** means that a recipient has not correctly implemented the requirements of this part.

**Operating Administration** or **OA** means any of the following parts of USDOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

**Personal Net Worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

**Primary Industry Classification** means the four digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U. S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site ([www.ntis.gov/naics](http://www.ntis.gov/naics)).

**Primary Recipient** means a recipient which USDOT financial assistance and passes some or all of it on to another recipient.

**Principal Place of Business** means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

**Program** means any undertaking on a recipient's part to use USDOT financial assistance, authorized by the laws to which this part applies.

**Race-conscious** measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

**Race-neutral** measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**Recipient** is any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

## Definitions (cont.)

**Secretary** means the Secretary of Transportation or his/her designee.

**Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

**Small Business Administration** or **SBA** means the United States Small Business Administration.

**Small Business Concern** means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

**Socially and Economically Disadvantaged Individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - (i) **"Black Americans,"** which includes persons having origins in any of the Black racial groups of Africa;
  - (ii) **"Hispanic Americans,"** which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (iii) **"Native Americans,"** which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (iv) **"Asian-Pacific Americans,"** which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - (v) **"Subcontinent Asian Americans,"** which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - (vi) **Women;**
  - (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

**Tribally Owned Concern** means any concern at least 51 percent owned by an Indian tribe as defined in this section.

## Definitions (cont.)

**USDOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

**You** refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

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## **Program Administration**

### **Non-Discrimination**

MoDOT will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against any person in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

MoDOT will not, directly or through contractual or other arrangements, use criteria or methods that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin in administration of the DBE program.

All requirements of 49 CFR Part 26 are incorporated by reference.

### **Program Updates**

MoDOT will continue to carry out the DBE program until all funds from USDOT financial assistance have been expended and will provide to USDOT updates representing significant changes in the program. This update has incorporated all previous submittals, updates, and revisions required by USDOT as of April 15, 2000.

### **State Regulations**

MoDOT must implement state regulations for administration of the DBE program in order to comply with state law. The **proposed** regulations have been attached and are incorporated by reference. (Attachment 7) The final regulation will be submitted to USDOT upon adoption.

### **Quotas or Set Asides**

MoDOT does not use quotas or set asides in any way in the administration of the DBE program.

### **DBE Liaison Officer**

The Director has appointed the External Civil Rights Administrator, Sharon M. Taegel, as DBE Liaison Officer.

**Sharon M. Taegel**  
**External Civil Rights Administrator**  
**P.O. Box 270**  
**Jefferson City, MO 65102**

**Telephone: (573) 751-2859**  
**Fax: (573) 526-5640**  
**E-Mail: [dbemail@modot.state.mo.us](mailto:dbemail@modot.state.mo.us)**



## **Program Administration (cont.)**

The External Civil Rights Administrator is responsible for implementation of all aspects of the DBE program objectives contained in the policy statement, in compliance with all state and federal laws. The administrator has independent and direct access to the Director, Chief Engineer, and all other members of the Director's staff.

The External Civil Rights Administrator is responsible for all activities of the External Civil Rights unit. The External Civil Rights Administrator reports directly to the Inspector General. The administrator develops, manages, and administers the DBE program, including defining processes, procedures, and operation policies. The administrator works closely with the Chief Counsel's Office to review DBE special provisions periodically to ensure they conform to the state and federal laws and reviews program administration with the attorney assigned responsibility for external civil right's issues.

The External Civil Rights Administrator's duties include supervision of 5 Civil Rights Specialist and 1 Civil Rights Technician, including 1 specialist remotely assigned to Kansas City and 1 specialist assigned to St. Louis, and any other staff temporarily or permanently assigned to the external unit. The Specialists are responsible for the day to day duties required to implement all requirements of external civil rights, including daily contact with DBE firms, DBE applicants, contractors, community based organizations, government agencies, and MoDOT personnel. (Organizational Charts, Personnel - Attachments 1A, 1B,2)

The external unit is also responsible for setting, and approving, DBE goals on federal aid construction projects, including projects administered by local public agencies, aviation and transit authorities, or any other sub-recipient. The administrator is also responsible for ensuring that the goals are monitored to verify compliance at the time of bid, the contract award stage, during project construction, and upon project acceptance. The external unit and MoDOT field staff monitor DBE performance for commercially useful function and any other requirements as set forth in 49 CFR Part 26. The administrator also oversees all support services provided to certified DBEs by MoDOT. Other responsibilities of the administrator include:

- ❖ Gathers and reports statistical data and other information as required by USDOT.
- ❖ Reviews third party contracts and purchase requisitions for compliance with the program.
- ❖ Works with all departments to set overall annual goals and project by project goals.
- ❖ Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

## Program Administration (cont.)

- ❖ Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- ❖ Analyzes MoDOT's progress toward goal attainment and identifies ways to improve progress.
- ❖ Participates in pre-bid meetings.
- ❖ Advises the Director and Commission on DBE matters and achievement.
- ❖ Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- ❖ Plans and participates in DBE training seminars.
- ❖ Provides outreach to DBEs and community organizations to advise of opportunities.
- ❖ Maintains the MoDOT DBE Directory and updates.

## Federal Financial Assistance Agreement Assurance

MoDOT agrees to and incorporates the following assurance into the day to day operations and the administration of all USDOT assisted contracts:

***“MoDOT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. The recipient’s DBE Program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to MoDOT of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).”***

MoDOT ensures that all recipients of USDOT assisted contracts, funds, or grants incorporates agrees to and complies with the assurance statement. All consultant, off-system, enhancement, FTA, or FAA projects must be reviewed by the External Civil Rights Unit in order set the appropriate DBE goal. In addition, the unit must review and concur with the local agencies recommendation for award.

MoDOT also reviews the project to ensure a commercially useful function is performed by the DBE firms and final verification of payment in order to ensure compliance with the contractual DBE goal. Any instances of non-compliance will be administered as set out below for MoDOT let projects.

## **Program Administration (cont.)**

### **Federal Transit Authority & Federal Aviation Administration**

In anticipation of the unified program administration, MoDOT is submitting one program to incorporate all modes and agencies within the USDOT, including the Federal Transit Authority (FTA) and Federal Aviation Administration (FAA) programs. The External Civil Rights Unit will work closely with the FTA and FAA program administrators to develop uniform certification and reporting processes.

The External Civil Rights Unit will be responsible for the administration of the DBE program for all USDOT agency requirements. Program administration includes goal setting or concurrence, participation verification, reporting, and DBE certification.

Any federal aid sub-recipients, with the exception of Lambert Airport Authority, Bi-State Development Agency, and Kansas City International Airport will be required to incorporate and comply with MoDOT's DBE program, assurances, and compliance requirements, including the use of DBE firms certified by MoDOT. Once a unified certification process is defined, all recipients will be required to accept only those firms certified under the UCP agreement. All Block Grant recipients will continue to be required to comply with leasing goals established by the sponsoring agency.

### **Use of DBE owned Financial Institutions**

MoDOT will thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged persons in Missouri and make reasonable efforts to use these institutions, within state law. At the present time only 2 minority owned banking institutions have been located, one in Kansas City and one in St. Louis. MoDOT will contact various community and business associations in an attempt to locate other DBE owned institutions. In addition, MoDOT will conduct internet research aimed at locating articles, websites, or any other information that may assist in locating such firms.

Once MoDOT has located DBE owned financial institutions, MoDOT will provide the names and addresses to all contractors, subcontractors, and DBE firms. In addition, MoDOT will contact these institutions in order determine services available and discuss innovative cooperative efforts to encourage contractors to use the services of the institutions.

### **DBE Directory**

MoDOT publishes a directory annually, with monthly updates, identifying certified DBEs. Copies of the directory are mailed annually to all contractors authorized to do business with MoDOT, DBE firms, organizations, Local Public Agencies, MoDOT District Offices, and any other entity requesting copies. Addendum's are mailed to all of those receiving notices and plan holders, DBE Firms, DBE organizations, Contractor Organizations, Local Public Agencies, MoDOT District Offices, and any other entity requesting copies. The DBE Directory is also available electronically to all District Offices and on the MoDOT website at <http://www.modot.state.mo.us>

## **Program Administration (cont.)**

The firms contained in the Directory, and addendum, are certified as meeting the certification eligibility requirements as outlined in 49 CFR Part 26. The directory contains the DBE firm name, address, phone, fax, owner name, certified work categories, and work area preferred.

Copies of the directory are available by contacting MoDOT's General Headquarters or Customer Service Center Telephone Number:

**GENERAL HEADQUARTERS  
105 West Capitol, P.O. Box 270  
Jefferson City, MO 65102-0270  
1 888 ASK-MODOT**

MoDOT has also made the Directory available electronically to all District Offices.

## **Over-Concentration**

MoDOT has not identified any areas of over-concentration. MoDOT will continue to monitor DBE participation and usage, and will take appropriate action to address any identified over-concentration.

## **Business Development Program**

At the present time MoDOT has implemented a program, in conjunction with the University of Missouri, Small Business Development Centers (SBDC), to provide "One on One" counseling the DBE firms. The counseling includes financial and business process analysis, marketing strategies, software support, and many other functions small businesses need to enhance operations. The service is provided at no charge to participating firms.

MoDOT has also contracted with the SBDC to provide basic services to small businesses and DBE firms visiting the centers throughout the state. Those services include development of business plans, DBE application assistance, and marketing strategies. Additional training opportunities will be developed based upon a DBE Program Needs Assessment completed in 1999.

MoDOT has developed a consultant and bonding informational packet to assist DBE firms in the MoDOT consultant processes and provide information to all DBE firms about the basic bonding and surety requirements. MoDOT will be providing similar information to the DBE firms on the subject of insurance requirements. In addition, MoDOT has contracted with a consultant to assist in an educational opportunity for DBE firms on the subject of bonding requirements, available programs, and securing bonds.

MoDOT has also undertaken the development of a Technical Resources Manual that will provide DBE firms with step by step instructions on locating bidding opportunities and business development programs using the Internet and technology.

## **Program Administration (cont.)**

MoDOT has also formed a Transportation Jobs Opportunity Council in St. Louis and Kansas City. While the initial emphasis has been placed on employment, the councils are also examining the DBE businesses, availability, and development needs. MoDOT is working closely with the councils to address specific issues or barriers that may be present, may inhibit the growth or expansion of DBE firms.

### **Mentor-Protege Program**

MoDOT will not be participating in a mentor protégé program at this time, however, will continue to review available programs.

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## Required Contract Clauses

### Contract Assurance

MoDOT will ensure that the following clause is placed in every USDOT assisted contract and subcontract:

***“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.”***

### Prompt Payment

MoDOT has eliminated the withholding of “retainage” for general or prime contractors in an effort to alleviate the impact of the prompt payment requirements. MoDOT requires all contractors to pay all subcontractors and suppliers for satisfactory performance of services in compliance with the prompt payment statute, Revised Statutes of Missouri, Section 34.057. (Attachment 3) MoDOT also requires the prompt, as defined in Section 34.057. For purposes of implementation of 49 CFR Part 26 satisfactory completion is determined by MoDOT personnel. This requirement is also contained in the contract specifications Section 109.13, thus is a contractual requirement. The Missouri statute contains clear penalties for non-compliance.

In addition, MoDOT has and will continue the complaint process for any subcontractor that feels they have not been paid in a timely manner. Once the complaint is received, MoDOT project office personnel conduct a review of the work status, payments made to the prime contractor, payments made to the subcontractor, document compliance, and the allegations put forth by the complainant. A written response is prepared and provided to the prime and the subcontractor. The project office will continue to monitor the situation. When the prime submits final payment documentation, if the payment remains outstanding, the justification must be noted as an amendment to the assurance of satisfaction of all claims. If there is no amendment and the claim remains outstanding, the prime will not receive final payment until satisfactory justification has been submitted as an amendment to the final assurance.

All contractors and subcontractors must retain records of all payments, made or received, for 3 years from the date of final payment and must be available for inspection, upon request, by any authorized representative of MoDOT or USDOT. MoDOT will maintain records of actual payments to DBE firms for work committed to at the time of contract award.

## **Required Contract Clauses** (cont.)

In addition, MoDOT will perform random audits of contract payments to firms. The audits will review payments to all subcontractors to ensure that payment was made in compliance with RSMO Section 34.057 and that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

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## Monitoring and Enforcement

### Commercially Useful Function

One of the key requirements of the DBE Program is that a **commercially useful function** be performed. This is defined as:

***"Being responsible for execution of a contract or a distinct element of the work by actually performing, managing, and supervising the work involved."***

MoDOT field personnel and General Headquarters staff monitor the performance of work to be performed by DBE firms on all federal aid projects, including those of sub-recipients. MoDOT personnel review all elements of the work to be performed, including supervision of employees, employee payroll, and equipment used by the DBE firm. Contractors, DBEs, local public agencies, and all employees are required to cooperate with MoDOT personnel conducting investigations.

Failure of a DBE firm to perform a commercially useful function will result in the dollar amount of the work not being credited toward the sub-recipient's or prime contractor's DBE goal on the project. This can result in MoDOT withholding payment from the prime contractor, or agency, for that amount, or could result in removal of eligibility of the DBE. In cases of deliberate attempts to circumvent the intent of the DBE program, or fraud, these actions may lead to criminal prosecution of both the prime contractor and the DBE firm.

Red Flag situations which may result in an investigation include, but are not limited to, shared employees, supervision of DBE employees by another contractor, use of the prime's equipment, use of other equipment by the DBE without a long-term lease, materials for the DBE ordered, or paid for, by the prime contractor, or an item of work being done jointly by the DBE firm and another contractor.

### Management

The DBE must manage the work that has been contracted. Management includes, but is not limited to, scheduling work operations, ordering equipment and materials, preparing and submitting certified payrolls, and hiring and firing employees. The DBE owner must supervise daily operations, either personally or with a full time, skilled, and knowledgeable superintendent. The superintendent must be under the DBE owner's direct supervision. The DBE owner must make all operational and managerial decisions of the firm. Mere performance of administrative duties is not supervision of daily operations.



## Monitoring and Enforcement (cont.)

### Materials

The DBE shall negotiate the cost, arrange delivery, and pay for the materials and supplies for the project. MoDOT will review invoices to verify billing and payment. The DBE must prepare the estimate, quantity of material, and be responsible for the quality of materials.

Two-party checks for payment may be made to the DBE and the supplier **only** if approved by MoDOT in advance. **No** credit toward the DBE goal will be given for the cost of materials or supplies paid directly by the prime for the DBE firm.

### Employees

In order to be considered an independent business, DBE firms must keep a regular workforce. DBE firms cannot "share" employees with non-DBE contractors, particularly the prime contractor. All work must be performed with a workforce the DBE firm controls, with a minimum of 30% of the work to be performed by the DBE firm's regular employees, or those hired by the DBE firm for the project from a source **other** than the prime contractor.

If a DBE firm does not perform or exercise responsibility for at least thirty (30) percent of the total cost of its contract or subcontract with its own work force, or the DBE subcontracts a greater portion of the work of a contract or subcontract than would be expected on the basis of normal industry practice for the type of work involved, MoDOT shall presume that the DBE is not performing a commercially useful function.

### Sanctions

The failure of a DBE firm to perform a commercially useful function (CUF) will result in the dollar value of that DBE firm's work not being credited toward the contractor's DBE goal for that contract. This may result in MoDOT withholding payment from the prime contractor of the entire amount not credited, if this results in the contractor's failure to achieve the DBE participation goal for that contract.

Deliberate conduct or indifference to the CUF requirements can also lead to the DBE firm's removal of eligibility. In any and all cases of deliberate attempts by the contractor, a DBE firm, or other firms to circumvent the requirements of the USDOT or MoDOT DBE Program, or their related contract requirements, or fraud of any kind, these actions may lead to suspension or debarment of the firms and their affiliates by MoDOT and may result in criminal prosecution and sanctions, plus civil and contractual liability, of any firm or person involved.

## **Monitoring and Enforcement (cont.)**

### **Fraud**

MoDOT will notify the USDOT of any suspected false, fraudulent, or dishonest conduct in connection with the DBE program, in order for the USDOT to take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. MoDOT will also consider similar action under Missouri legal authorities, including responsibility determinations in future contracts.

MoDOT will set the goal as a percentage of all federal aid highway funds for the coming year. The goal will be submitted to USDOT by August 1 of each year. MoDOT will also submit a narrative of the goal setting process including participants, the evidence utilized, and adjustments made. The narrative will state what percentage is expected to be met by race neutral and race conscious means.

In order to ensure public participation, MoDOT will consult DBE firms, DBE organizations, Contractor Organizations, Local Public Agencies, the general public, and other interested and knowledgeable parties. MoDOT will publish the proposed overall goal in general circulation, minority and female focused publications, trade association publications, and the MoDOT website. Comments can be directed to the address above for the DBE Liaison Officer.

In the development of the overall DBE goal submitted for Fiscal Year 2001 and in anticipation of implementation of Part 26, MoDOT conducted a series of “town hall” meetings throughout the state. Those meetings took place in May and June of 1999 in St. Louis, Kansas City, Springfield, and Jefferson City. The program requirements, MoDOT processes, and program options were discussed. MoDOT used the information gathered to develop the DBE program, set the overall goal, and revise processes. The questions and comments were sent to participants.

In addition, MoDOT held a series of “focus group” meetings with MoDOT personnel, contractors, DBE firms, community based organizations, and the AGC. The topics for these meetings were methods of program development related to trucking, bidder’s list development, and prompt payment. The participants were given an opportunity to provide comments and alternate methods of meeting the requirements of Part 26.

The original DBE program submittal contained an interim goal of 15% of which 3% is race neutral achievement, based upon the list of available DBE firms as set out in MoDOT's DBE directory. This goal was in place until MoDOT completed the availability study and the baseline adjustments required. The goal calculations are set out in the table below:

## Overall Goal (cont.)

Table 1

| MoDOT DBE Utilization Analysis |        |                               |                            |                       |                      |
|--------------------------------|--------|-------------------------------|----------------------------|-----------------------|----------------------|
| DBE Utilization                |        | Race Neutral Participation    |                            |                       |                      |
|                                |        | Federal<br>Funded<br>Projects | State Funded Projects      |                       |                      |
|                                |        | Prime<br>Participation        | Total Contract<br>\$ Value | DBE<br>Subcontract \$ | DBE<br>Subcontract % |
| <b>FY1998</b>                  | 15.31% | 0.07%                         | \$73,830,184.13            | \$827,364.05          | 1.12%                |
| <b>FY1999</b>                  | 10.42% | 1.12%                         | \$77,238,929.61            | \$2,574,645.18        | 3.33%                |
| <b>FY2000</b>                  | 9.58%  | .9%                           | \$102,650,977.21           | \$1,140,981.11        | 1.11%                |

MoDOT seeks approval of an overall statewide and market area goals for Fiscal Year 2001. MoDOT has determined that the use of economics and statistical experts to assist in a goal setting methodology best meets the constitutional requirements of narrow tailoring in setting the overall DBE goal and has contracted with Public Policy Research Council of the University of Missouri at St. Louis (UMSL) to conduct the availability study. The initial study has been completed, however, additional calculations and discussion of methodology was necessary to ensure compliance with the required methodology. The study has been finalized.

The baseline availability figures have been reviewed and MoDOT has examined other data in order to determine any adjustment that is necessary to meet the "But For" test required in Step 2 of the required methodology. That data includes a review of disparity studies conducted within the market, capacity as illustrated through past utilization, and the goals of other USDOT recipients.

MoDOT reviewed the disparity studies conducted by the City of Kansas City, State of Missouri Office of Administration, and St. Louis City. While these studies did include construction and contracting, they did not include heavy highway construction contracts. In addition, the data used is not current. In order to ensure compliance with the requirements for narrow tailoring and goals based upon the **current** market, MoDOT did not make any adjustments based upon the findings of the disparity studies.

MoDOT has determined that due to availability, contracting patterns, and delineated market areas it is necessary to set specific market area goals as well as a statewide goal. The market area goals are intended to reflect the requirements and activities of specific areas within the state due to geography, metropolitan area availability, population, and expanded markets with neighboring states.

## Overall Goal (cont.)

### Baseline Calculation

The Availability Study was completed in January 2000 with an addendum completed in April 2000. UMSL set out their statistical analysis, data sources, and justifications in the attached report. The study reviewed several data sources including, Dunn & Bradstreet, County Census Data, other DBE Directories, and MoDOT bidding history. A baseline figure for the statewide goal and 5 market areas was defined using the relevant SIC codes for consulting, supply, hauling, general construction and heavy highway construction. The 5 areas are:

Kansas City (including Kansas)  
St. Louis (including Illinois)  
Columbia  
Springfield  
Out-state (Rural counties not included in the Metropolitan market areas)

The study found the baseline availability to be:

Table 2

| Metropolitan Market Area DBE Availability |  |             |  |                     |            |
|---|--|-------------|--|---------------------|------------|
| Area                                      |  | Total Firms |  | Available DBE Firms | Percentage |
| Out State                                 |  | 11,212      |  | 392                 | 3.5        |
| St. Louis                                 |  | 9,990       |  | 1,340               | 13.41      |
| Kansas City                               |  | 5,423       |  | 570                 | 10.51      |
| Columbia                                  |  | 594         |  | 41                  | 6.90       |
| Springfield                               |  | 1,179       |  | 67                  | 5.68       |
| Statewide                                 |  | 28,398      |  | 2410                | 8.48       |

### Step 2 Adjustment

Once the baseline figures were identified, MoDOT proceeded with the Step 2 analysis and adjustment. MoDOT reviewed the relevant data, including previous disparity studies in the region, other recipient goals, and capacity as illustrated by past utilization. As previously stated, MoDOT did not make any adjustments based upon disparity studies due to the data analysis and time frame they were completed. MoDOT did make adjustment based upon the capacity and historic utilization of the DBE firms in the specific market areas.

MoDOT reviewed the contracting utilization for the period of October 1997 through September 2000. The data was then broken down by federal fiscal year and analyzed. Attachment 4 contains the summary of the data analysis, including the DBE utilization.

MoDOT then considered new race neutral measures that have been recently initiated to further level the playing field for DBE firms, including assignment of remote specialists to the western and eastern portion of the state for outreach and recruitment, a monthly bidding "Bulletin" informing DBE firms of contracting opportunities beyond projects with DBE goals, training for

## Overall Goal (cont.)

Bonding and short term lending programs, certification assistance at different locations through out the state for new firms, education and technical assistance through a quarterly newsletter, and increased participation in outreach activities sponsored by other entities. MoDOT will be implementing the Unified Certification Process, which will increase the number of available DBE firms as well as increase the business development activities through an RFP intended to provide classroom and one on one services to assist DBE firms compete. These measures were formulated in response to concerns expressed by DBE firms and in order to provide a level playing field in Missouri.

These activities are targeted at specific barriers to the MoDOT marketplace that have been identified by DBE firms. These measures were newly implemented in stages from January 2000 to present. MoDOT expects that these measures will begin to have a significant impact in 2001 in reducing barriers to DBE participation and increasing the number and capacity of DBE firms available to compete in the marketplace. MoDOT has therefore adjusted its goals to account for the effects of these race neutral programs.

MoDOT did not make any adjustments to the baseline figure for the statewide, Out State, Columbia and Springfield areas based on past participation. The utilization data for those areas was at or near the 10% participation previously required under Part 23, therefore, it was felt that the figures were artificially inflated due to compliance. The Fiscal Year 2000 utilization for the Kansas City Market was at the baseline figure. However, Kansas City has traditionally exceeded participation goals, therefore, that goal was adjusted to 13%. No adjustment was made to the St. Louis market goal since the availability and utilization were virtually the same.

A minor upward adjustment of .2% was made to the overall goal based on historic DBE participation statewide. Adjustments were made in each area to account for the effect of the removal of barriers due to the implementation of new race neutral measures. The greatest impacts of these measures are anticipated in urban areas, therefore, higher adjustments were made to those areas. Overall, the statewide goal was adjusted 3% to account for the effect of these measures.

## Overall Goal (cont.)

The DBE availability, utilization, adjustments, race neutral estimates and final program goals for FY 2001 are set out in Table 3:

Table 3

| Area        | Baseline Availability % | FY 1999 Participation | FY 2000 Participation | Adjusted DBE Goal | Effect of Additional Race Neutral Measures | Total |
|-------------|-------------------------|-----------------------|-----------------------|-------------------|--|-------|
| Out State   | 3.5                     | 9.86                  | 8.55                  | 3.5               | 1.5  | 5.0   |
| St. Louis   | 13.41                   | 14.20                 | 12.26                 | 13.0              | 3.0  | 16.0  |
| Kansas City | 10.51                   | 12.73                 | 10.27                 | 13.0              | 3.0  | 16.0  |
| Columbia    | 6.90                    | 8.34                  | 5.20                  | 7.0               | 1.5  | 8.5   |
| Springfield | 5.68                    | 10.06                 | 11.21                 | 6.0               | 1.5  | 7.5   |
| Statewide   | 8.48                    | 10.42                 | 9.5                   | 8.5               | 3.0  | 11.5  |

The statewide goal is 11.5%, including participation due to race neutral measures. The total of the Adjusted Overall DBE Goal equals 8.5% with 3.0% expected due to race neutral measures. The Adjusted DBE Goals for the 5 market areas equals the Adjusted Overall DBE Goal of 8.5%. However, once the estimated race neutral effects are weighted due to the number of available firms and historic participation in the individual market areas, the total of the 5 areas does not equal the 11.5% submitted for the overall total. Since the race neutral measures are estimates based upon participation in state projects and additional outreach and development activities MoDOT acknowledges the difference and will examine the individual market race neutral participation in the calculation of the 2002 goals and make additional adjustments based upon the data.

## Race Neutral

MoDOT does not operate a DBE program on projects wholly funded by state funds, therefore, an analysis of the DBE participation on these projects, participation over and above the USDOT assisted projects goals, and past participation of DBE firms as prime contractors was completed. This participation represents the race-neutral participation achieved by MoDOT and will be used to estimate the amount expected to be achieved by race-neutral means.

As set out in the Table 1 above, the race neutral participation MoDOT has documented through lettings in Fiscal Years 1999 & 2000 indicates 2.2% of DBE participation is attributed to race neutral means. However, MoDOT had an increase in state let projects, therefore the percentage was greatly reduced for fiscal year 2000. MoDOT has opted to maintain the 3% race neutral figures for Kansas City and St. Louis since the larger projects with higher race neutral participation were in these markets. MoDOT has maintained the reduced race neutral participation for the other market areas. The statewide goal achievement was 9.5% with race neutral participation of 2.2% or 11.7%

## Overall Goal (cont.)

### FTA

MoDOT has attempted to locate additional data for utilization related to FTA contracting activities, however the data is limited. The data necessary to examine the specific markets, past utilization and available firms is not available on a statewide or market basis. In addition, much of the funding provided to sub-recipients is not subject to the DBE program. These funds include Transit Vehicle Manufacturer funds and funds for operating costs of cities and not for profit organizations.

The Availability Study conducted by UMSL included the SIC codes for Consulting and General Building Contractors. The addendum includes a justification for the inclusion and the statistical ramifications for the removal of the DBE and Non-DBE firms within the General Contractors code. The study found that the removal would not change the availability percentage, therefore MoDOT has opted to include the firms in the goal analysis

MoDOT has determined that the contracting opportunities for FTA funds are primarily in the Planning and Construction areas. Therefore, the inclusion of the consultant and general contractor SIC codes provides availability figures for FTA expenditures.

MoDOT is requesting approval for goals on FTA funds at the same level as those set out in Table 3 for MoDOT contracting activities.

### FAA

MoDOT has determined that the market and available firms for contracting in heavy highway and FAA projects are the same. The contractors, suppliers, consultants, and truckers are the same firms. In addition, the type of work and materials are similar. Therefore, MoDOT has determined that the applicable market areas and goals are the same as set out in Table 3 and is requesting approval for goals on FTA funds at the same level as those set out in Table 3 for MoDOT contracting activities.

### Transit Vehicle Manufacturers

MoDOT will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, to certify that it has complied with the requirements of Section 26.49. Alternatively, MoDOT may, at its discretion, with FTA approval, establish project specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.



## **Overall Goal (cont.)**

### **Process**

MoDOT will submit its overall goal to USDOT on August 1 of each year, commencing with August 1, 2000. Before establishing the overall goal each year, MoDOT will consult with minority, female, and general contractor groups, community organizations, and other officials or organizations. These groups include, but are not limited to, the Minority Contractors Associations within in the state, Women in Construction, National Association of Women in Construction, Kansas City Hispanic Contractors Association, the Associated General Contractors, Heavy Constructors Association, Associated General Contractors of St. Louis, St. Louis City, City of Kansas City, other municipal entities, and any other organization available to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MoDOT's efforts to establish a level playing field for the participation of DBE firms.

Following this consultation, MoDOT will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the General Headquarters Office for 30 days following the date of the notice. MoDOT and the USDOT will accept comments on the goals for 45 days from the date of the notice. Normally, MoDOT will issue the notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses, including offices and website where the proposal may be reviewed. MoDOT will begin using the overall goal on October 1 of each year, unless other instructions have been received from USDOT.

### **Race Neutral Means**

MoDOT will strive to meet the maximum feasible portion of the overall annual goal by race neutral means. Race neutral participation involves affirmative action to assist all small business contractors and subcontractors. MoDOT uses the following race-neutral means to increase DBE participation:

- ❖ Where feasible MoDOT will unbundle large contracts to make them accessible to small businesses.
- ❖ Encouraging prime contractors to subcontract portions of work normally done by their own forces, when subcontractors submit a lower quote.
- ❖ Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation.
- ❖ Providing technical assistance and other services.

## Overall Goal (cont.)

- ❖ Providing assistance in overcoming limitations such as inability to obtain bonding or financing, by such means intended to provide services to help DBEs, and other small businesses, in obtaining bonding and financing.
- ❖ Carrying out information and communications programs on contracting procedures and specific contract opportunities by ensuring the inclusion of DBEs, and other small businesses, on mailing lists for bidders, and ensuring the dissemination bidders lists of potential subcontractors.
- ❖ Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses.
- ❖ Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
- ❖ Ensuring distribution of the DBE directory, through print and electronic means.
- ❖ Assisting DBEs, and other small businesses, to develop the capability to utilize emerging technology and conduct business through electronic media.

The amount of the goal estimated to be achieved by race-neutral means will be provided upon completion of the availability study and analysis set out above.

MoDOT does not operate a DBE program on projects wholly funded by state funds, therefore, an analysis of the DBE participation on these projects, participation over and above the USDOT assisted projects goals, and past participation of DBE firms as prime contractors will be completed in conjunction with the availability analysis. This participation represents the race-neutral participation achieved by MoDOT and will be used to develop a statistical relationship to estimate the amount expected to be achieved by race-neutral means.

MoDOT will adjust the estimated breakout of race-neutral and race-conscious participation to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- ❖ DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures.
- ❖ DBE participation through a subcontract that does not carry a DBE goal.
- ❖ DBE participation on a prime contract exceeding the contract goal.

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## Project Goals

MoDOT will use contract goals to meet any portion of the overall goal MoDOT does not project being able to be met using race-neutral means. MoDOT will establish contract goals **only** on those USDOT assisted contracts with subcontracting possibilities.

The External Civil Rights Unit is responsible for setting all DBE goals on MoDOT let projects. The unit is also responsible for review and concurrence on all off-system, aviation, transit, enhancement, consultant, and any other sub-recipient project DBE goal. One Civil Rights Specialist has been designated to set the goals, verify compliance, review “good faith efforts”, and investigate “commercially useful function” questions. The specialist works closely with the Design and Bridge Divisions, Chief Counsel’s Office, Construction personnel, and Planning personnel to ensure all requirements are met.

The project goal is set by reviewing the type of project, elements of work to be performed, time frame, geographical location, history of DBE and Non-DBE usage, and available DBE firms. At the present time the project goal is expressed as a percentage of the total amount of a USDOT assisted contract, however, MoDOT is currently reviewing the possibility of using monetary goals on a project basis.



## Good Faith Efforts (cont.)

The Administrative Reconsideration Committee will include 3 individuals MoDOT deems appropriate and the members will be familiar with the DBE program, bidding, construction, and/or contracting matters. The External Civil Rights Unit will process the request, including providing documentation of the determination, and notify the Administrative Reconsideration Committee of the request for review, however, the administrator, nor any member of MoDOT that had a part in the initial determination will be a part of the reconsideration determination.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so to the committee. The bidder may choose to meet in person with the Administrative Reconsideration committee to discuss the finding. MoDOT will notify the bidder, in writing of the decision on reconsideration, explaining the basis for finding that the bidder did or did not make adequate good faith efforts to meet the goal. The result of the reconsideration process is not administratively appealable to the USDOT.

## Termination, Removal, Or Substitution Of DBE Firm

A contractor cannot terminate, release, or substitute any DBE firm without the written consent of MoDOT. The contractor must provide documentation to Resident Engineer that the DBE firm is ***unwilling or unable to perform*** within 5 working days of notice of the inability to perform by the DBE firm. The Resident Engineer will forward the notice to the External Civil Rights Administrator for approval. If removal of a DBE firm is approved, or a DBE firm withdraws, the contractor must make a good faith effort to find a replacement DBE firm. The contractor must make efforts to replace the dollar value of work to be performed not merely finding a replacement for the work that was to be performed by the DBE firm being replaced. If substitution of a DBE firm is approved, the prime contractor must provide the Resident Engineer and External Civil Rights Administrator copies of new or amended subcontracts.

If the contractor fails or refuses to comply in the time specified, MoDOT will issue an order stopping all or part of payment until satisfactory action has been taken. If the contractor remains in non-compliance MoDOT may issue a termination for default proceeding. If MoDOT finds the contractor did not make a good faith effort, the contractor is entitled to the administrative reconsideration.

If the Administrative Reconsideration Committee concurs in the original finding of no good faith efforts, the contractor is subject to administrative remedies upon final verification of DBE participation. The contractor will not be given credit for the amount applicable to the determination of a failure to make a good faith effort to replace the DBE firm.

## **Good Faith Efforts** (cont.)

MoDOT may assess monetary damages for the difference between the amount the contractor is given credit for and the contract DBE goal. In addition, MoDOT may impose any other administrative remedies available at law or provided in the contract. If the failure to comply with the contractual DBE requirements is intentional or fraudulent in any respect, the contractor, and any other firms or persons acting with the contractor, are subject to suspension or debarment by MoDOT.

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## DBE Participation

DBE credit will count toward the contractual goal only for work actually performed by the DBE firm and within the Standard Industry Classification (SIC) code approved for that firm. The credit will be counted in the following manner:

### Manufacturer

Credit is given for 100 percent of the value paid for materials furnished which become a permanent part of the project. A manufacturer is a firm that owns and operates the facilities to produce a product required by the project and purchased by the contractor.

### Supplier

Credit is given for 60 percent of the value paid for materials furnished which becomes a permanent part of the project. A supplier sells goods to the general public and maintains an inventory at an owned or leased warehouse or store. Bulk items such as steel, petroleum products, or rock do not have to be maintained in an on-site inventory. Credit will not be given for the cost of the materials and separate credit for the hauling of those same materials. Transportation of the materials is deemed part of the total cost.

### Broker

Credit is given for 100 percent of the **fees** or **commission** received by the DBE firm for materials purchased, services provided, or equipment secured and resold to the contractor. Fees or commissions are defined as the difference between what the DBE firm paid for the materials purchased, services provided, or equipment secured and the price paid by the contractor to the DBE firm for those items. A broker does not manufacture or supply on a regular basis.

### Trucker

Credit is given for 100 percent of the amount paid to the DBE trucker if the majority of the trucking is performed by the DBE, with employees of the DBE, using equipment owned or long-term leased by the DBE. However, if the DBE firm uses leased trucks, at least one truck owned by the firm **must** be used on the project.

Full credit will not be given for leased trucks unless they are leased from another DBE firm, DBE owner operators, or a recognized commercial leasing operation. Firms licensed by the Missouri Public Service Commission as leasing agents qualify as a recognized leasing operation. Lease of trucks from the prime contractor will not be credited toward the DBE goal other than the fees and commissions. This type of relationship will be subject to strict scrutiny.

## DBE Participation (cont.)

All trucks used must be labeled clearly and visibly with a sign indicating the firm owning or leasing the vehicle. MoDOT will require submittal of a truck roster report, including ownership and vehicle identification information, on a regular basis. MoDOT project office personnel will review the rosters for verification and will monitor the trucks operating on the project. MoDOT will conduct random verification and report any irregularities to the External Civil Rights Unit for review.

If the DBE firm uses owner-operators to supplement their owned trucks, the DBE must be responsible for management and supervision of the entire trucking operation. The trucking arrangement or contract **cannot** be a contrived arrangement to meet the DBE goal. The DBE will be considered a broker, and only fees or commissions received will count toward the goal, if the DBE is not in full control, or does not have employees or trucks on the project.

In order for the use of a DBE trucker to be credited for the delivered price of materials/ supplies, the trucker must be certified as a supplier or manufacturer of the material, responsible for the quality standards of the material, negotiating the material price, payment, and select the source.

### Contractor

Credit is given for 100 percent of the amount paid to a DBE contractor for labor and materials provided to perform a defined and clearly measurable portion of the contract. 30 percent of the work must be performed by the DBE's **own** employees and the DBE must order and pay for all supplies and materials.

### Verification

MoDOT requires submittal of an affidavit of final payment for all DBE firms prior to release of final payment and retainage to the prime contractor. The final original items to be performed, change orders, final quantities, and payments are then reviewed to determine if the contractor has complied with the contractual DBE goal. If the prime does not comply with the goal, MoDOT withholds the amount the contractor failed to achieve as the administrative remedy for non-compliance.

The contractor is then given the opportunity for administrative reconsideration in the same manner as determinations of failure to perform a commercially useful function, set out under the section entitled Administrative Reconsideration & Appeals.

At the present time MoDOT maintains a database of contractual DBE commitments and compliance. In addition, MoDOT uses spreadsheets set up specifically to calculate compliance. MoDOT is examining civil rights oriented software that will provide enhanced tracking and verification abilities. MoDOT has also implemented the AASHTO Transport software which includes the Sitemanager construction management module. This module does include Civil Rights and payment monitoring processes.



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## DBE Eligibility

MoDOT's commitment is to provide a level playing field for contracting activities and opportunities to bona fide DBE firms and DBE majority controlled joint venture firms. The firm must be an **existing** small business, at least 51% owned and controlled by one or more socially and economically disadvantaged persons.

### Social Disadvantage

A socially disadvantaged person is one who is a U.S. citizen or legal resident who has been subject to discrimination in education or business, has documented such discrimination, and is:

1. African American
2. Hispanic American
3. Native American
4. Asian-Pacific American
5. Subcontinent-Asian American
6. Women
7. Others determined to be disadvantaged

### Economic Disadvantage

An economically disadvantaged person is one who is a member of one of the above protected groups and who has a personal net worth of less than \$750,000.00, excluding the value of one personal residence and the value of the ownership in the applicant firm.

### Process

An applicant must complete the MoDOT application, statement of individual personal net worth, or provide a CPA prepared statement of personal net worth and CPA Addendum, and enclose all required documents on the checklist (Attachments 5,6). All incoming applications are checked for completeness, compliance with personal net worth, business size, and ownership. Incomplete applications may be returned or additional documentation requested. Applicants will receive a decision letter within 90 days of receipt of a **complete** application. MoDOT may extend the period for review by one 60 day period.

Each application is assigned to a MoDOT Civil Rights Specialist for an in-depth review. The assigned specialist conducts all review and investigative activities to determine eligibility. The specialist will evaluate the operational and managerial control through documents relating to all aspects of corporate, partnership, leasing, or any other area relevant to the review. In addition, the specialist will review financial statements, personal and business tax returns, proof of ownership, experience, and the firm's work experience.

## DBE Eligibility (cont.)

### On-Site Interview

An interview is scheduled with the owner(s) at the firm's office. The assigned specialist uses MoDOT's on-site review questionnaire and supplements it with any areas of concern specific to the firm. The specialist will visit the job-site, interview employees, examine equipment, and speak with contractors or inspectors at the project site.

### Evaluation

The DBE specialist will evaluate all information and inform the firm, in writing, of the final determination. The External Civil Rights Administrator reviews all determinations. All certification requests are tracked electronically and the administrator reviews the status weekly.

### Certification

When a firm is certified, the firm is notified in writing, including the specific category of work approved. The firm is added to the DBE directory and will be given an opportunity to request specific support services to meet their needs. All certifications are for 3 years. At the end of 3 years, the firm must again apply for certification.

On the annual anniversary date of certification, each DBE firm must submit a signed and sworn notarized affidavit that the firm meets the size standard and no changes in ownership or control have occurred that would affect certification eligibility. The statement must be accompanied by the qualifying owner's personal tax return, individual personal net worth update statement, the company tax return, and the company financial statement. MoDOT will notify each firm of the required update, however, failure to submit the update so by the assigned date will result in removal of eligibility for failure to cooperate.

All DBE firms must inform MoDOT, in a written affidavit, of any change in circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR part 26, or of any material changes in the information provided with the firm's application for certification.

### Denials

If MoDOT makes a determination to deny certification of a **new** applicant, the firm is notified in writing by certified mail. The notice sets out the grounds for denial and specifically references the evidence to support the determination. A denied firm may *not* reapply for a period of 12 months from the date of the denial letter. The firm **may** request an administrative reconsideration by MoDOT, or may appeal directly, in writing, to the USDOT. If the firm requests a reconsideration by MoDOT, and the decision to deny is upheld, the firm may then appeal to the USDOT.

## DBE Eligibility (cont.)

### Removal of Eligibility

MoDOT will accept written complaints from any person alleging that a currently certified DBE firm is ineligible and stating specific reasons for

ineligibility. MoDOT will thoroughly investigate the complaint and if reasonable cause is found, will notify the DBE in writing of the removal of eligibility.

If MoDOT has reason to believe a certified DBE firm is ineligible, the department will thoroughly investigate the firm's operations, and if reasonable cause is found, will notify the DBE in writing of removal of eligibility.

The USDOT may notify MoDOT of reasonable cause to find a certified DBE firm to be ineligible. MoDOT must immediately initiate removal procedures.

## **Grounds for Removal of Eligibility**

The decision to remove eligibility will be based on circumstances that have changed since certification, evidence not available at the time of certification, evidence concealed or misrepresented, a change in certification standards, or a documentation of an erroneous determination contrary to the facts. In all cases except required removal by the USDOT, the firm **may** request an informal hearing by MoDOT, or may appeal directly, in writing, to the USDOT. If the firm requests a hearing with MoDOT, and the decision to deny is upheld, the firm may then appeal to the USDOT. If the USDOT requires removal of eligibility, all appeals must be made directly to the USDOT.

## **Notice**

MoDOT will notify the DBE firm of the decision to remove certification eligibility, the grounds, rights of administrative reconsideration, and consequences of removal. The firm remains an eligible DBE during the MoDOT investigation and hearing process. The removal of ineligibility becomes effective on the date of the MoDOT final determination letter.

## **Effects of Removal**

The prime contractor will receive DBE credit for all DBE work that is currently under contract. If there was a bid commitment but no written contract executed with MoDOT, the prime contractor must make good faith efforts to replace the DBE firm for all or part of the committed amount.

MoDOT will review the eligibility of DBEs certified under former part 23, to ensure the firms and owners meet the standards of Subpart D of part 26. This review will be completed no later than one year from the most recent certification date of each firm and will take place at the former date of expiration under part 23.

## **Unified Certification Process**

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### **Unified Certification Program**

MoDOT has initiated the effort to develop a Unified Certification Process (UCP). Representatives from MoDOT, Kansas City International Airport, Kansas City Area Transit Authority, Bi-State Development Corporation (St. Louis FTA recipient) and the St. Louis Lambert Airport Authority have initiated efforts to review the current processes, constitutional restrictions, resources, and other factors related to development of a plan. In addition, representatives from other city entities have been invited to participate in the process. Those representatives include the cities of Columbia, Springfield, Joplin, St. Joseph, and their corresponding FTA and FAA recipients. Once a plan has been developed, all USDOT recipients within the state will have the opportunity to review the program prior to final implementation.

When the UCP is established and operational, a firm will be required to apply for certification with only one entity, and if that firm is certified by that entity, the firm's DBE certification will be honored by all other USDOT funding recipients in Missouri. MoDOT regulations will be amended to describe the UCP DBE certification process and will be amended to adopt any requirements necessary to conform and comply.

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## **Administrative Reconsideration and Appeals**

### **Administrative Reconsideration Committee**

The Administrative Reconsideration Committee reviews any request for reconsideration of a Good Faith Effort determination. The Administrative Reconsideration Committee will include 3 individuals MoDOT deems appropriate and the members will be familiar with the DBE program, bidding, construction, and/or contracting matters. The External Civil Rights Unit will process the request, including providing documentation of the determination, and notify the Administrative Reconsideration Committee of the request for review, however, the administrator, nor any member of MoDOT that had a part in the initial determination will be part of the reconsideration review.

Once the committee has reviewed any information presented, a final determination is made. The party is informed of the decision, including grounds, in writing. The decisions of the Administrative Reconsideration Committee are final and not appealable to the USDOT.

### **DBE Certification Administrative Review**

Any firm that has been denied certification, whether it was a denial of initial certification, removal of certification prior to the 3 year expiration date, or a denial of re-certification at the date of expiration, is entitled to an Administrative Review by MoDOT. In addition, any firm, or entity, that has been subject to a finding that a commercially useful function was **not** performed, and liquidated damages assessed, is entitled to an Administrative Review. The review must be requested, in writing, within 15 days of the date of the determination letter issued by MoDOT setting out the grounds for denial, removal of certification, or damages. The review may be in writing or in person. The request for Administrative Review must be sent to:

**Sharon M. Taegel**  
**External Civil Rights Administrator**  
**P.O. Box 270**  
**Jefferson City, MO 65102**  
**Telephone: (573) 751-2859**  
**Fax: (573) 526-5640**  
**E-Mail: [dbemail@modot.state.mo.us](mailto:dbemail@modot.state.mo.us)**

An administrative hearing officer will be appointed by the Chief Counsel's Office. If the hearing is conducted in person, a transcript of the proceeding will be made and provided to the party requesting the review. The party may be represented by counsel and submit documentation or exhibits to supplement the record. The External Civil Rights Administrator and counsel will represent MoDOT. The final determination of the hearing officer will be made within a reasonable period of time, but not to exceed 45 days. The determination will be implemented immediately, including removal from the DBE directory if the finding is to uphold the removal of certification eligibility or denial of re-certification.

## **Administrative Reconsideration and Appeals (cont.)**

Any firm that has been denied certification, re-certification or had certification removed may appeal the final determination to the USDOT and may elect to do so without requesting an Administrative Review by MoDOT. Any finding to uphold the assessment of liquidated damages for failure to perform a commercially useful function is **not** appealed to the USDOT. The party is free to choose any legal remedies available.

The presumption of economic disadvantage is rebutted if an individual upon which the social and economic disadvantage status is claimed is determined to have exceeded the \$750,000 individual personal net worth cap. MoDOT will notify that individual owner and the DBE firm in question in writing that the owner is not economically disadvantaged and can no longer be used to support the firm's eligibility as a DBE. However, if that individual's loss of economic disadvantage status renders the firm ineligible as a DBE, MoDOT will implement the proceeding to remove the firm's DBE eligibility. If MoDOT determines that the firm does not meet the eligibility requirements, the firm is entitled to an Administrative Review, as set out above.

### **USDOT Appeals**

Any applicant who has been denied certification by MoDOT, denied certification upon expiration of a 3 year certification period, or a previously certified firm whose eligibility had been removed by MoDOT, may appeal in writing to the USDOT. Any third party complainant in an ineligibility complaint to MoDOT, may appeal if MoDOT does not remove eligibility and the complainant believes that failure to remove is in error.

The complete appeal must be filed within 90 days of the date of MoDOT's final decision letter. The appeal must contain a narrative as to why the complainant believes MoDOT's decision was in error and must supply documents in support of the claim. The firm **must** disclose in the appeal all other denials or rejections within one year of the date of the appeal. Failure to do so is a failure to cooperate and grounds for denial of the appeal.

MoDOT will provide USDOT the administrative record and transcript, if Administrative Review was requested, within 20 days of notice of the appeal. Any firm or complainant may appeal the decision in a certification matter to USDOT. All requests for appeal must be made to the following:

**Department of Transportation  
Office of Civil Rights  
Certification Appeals Branch  
400 7th St., SW, Room 2104  
Washington, DC 20590**

MoDOT will promptly implement any USDOT certification appeal decision affecting the eligibility of DBE firms.

## Information Collection and Reporting

### Bidders List

MoDOT will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT assisted contracts. The purpose of this requirement is to allow use of the bidders list approach in calculating overall goals and adjusting the overall goal on a yearly basis. The bidders list will include the name, address, DBE/non-DBE status, age of firm, and annual gross receipts of firms.

MoDOT will collect this data in the following manner:

- All contractors, subcontractors, suppliers, and truckers will be required to be registered and obtain a vendor number prior to authorization to commence work on a project.
- The registration form will gather the name, address, DBE/non-DBE status, age of firm, annual gross receipts, geographical preference, and type of work performed, for each firm.
- The registration will be mailed to all contractors, subcontractors, DBE firms, material suppliers, and any other firm contained in MoDOT records.
- The firms will receive a vendor number and the information will be entered into a database.
- The firms will be required to update their filing on a yearly basis.
- The listing will be mailed at least semi yearly to all firms, requesting that they provide the names of any firms they received quotes from that may not be listed.
- The listing will be available on the MoDOT internet site.
- Project office personnel will check all subcontractors, suppliers, and haulers on a project to verify they have been registered. If a firm is not registered, they must do so prior to commencement of work.
- The project office personnel will have the forms available to complete and submit. Once the form has been submitted, the firm can commence work even though they have not received formal notice of registration.

MoDOT feels that by sending out lists to all firms requesting updates and by requiring registration prior to working, any firm that quotes work will eventually be collected. In addition, this protects the privacy of gross receipts.

### Reporting to USDOT

MoDOT will report all DBE participation, including block grants for FAA and FTA programs, to USDOT. MoDOT will submit the annual USDOT Form 4630, as modified for use by FAA recipients, USDOT Form 4630 on a quarterly basis for use by FTA recipients, and Form 4630 for FHWA recipients on a quarterly basis.

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## **Confidentiality**

MoDOT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law [program should summarize applicable state and local law, such as state FOIA laws and how they apply]. Notwithstanding any contrary provisions of state or local law, MoDOT will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.



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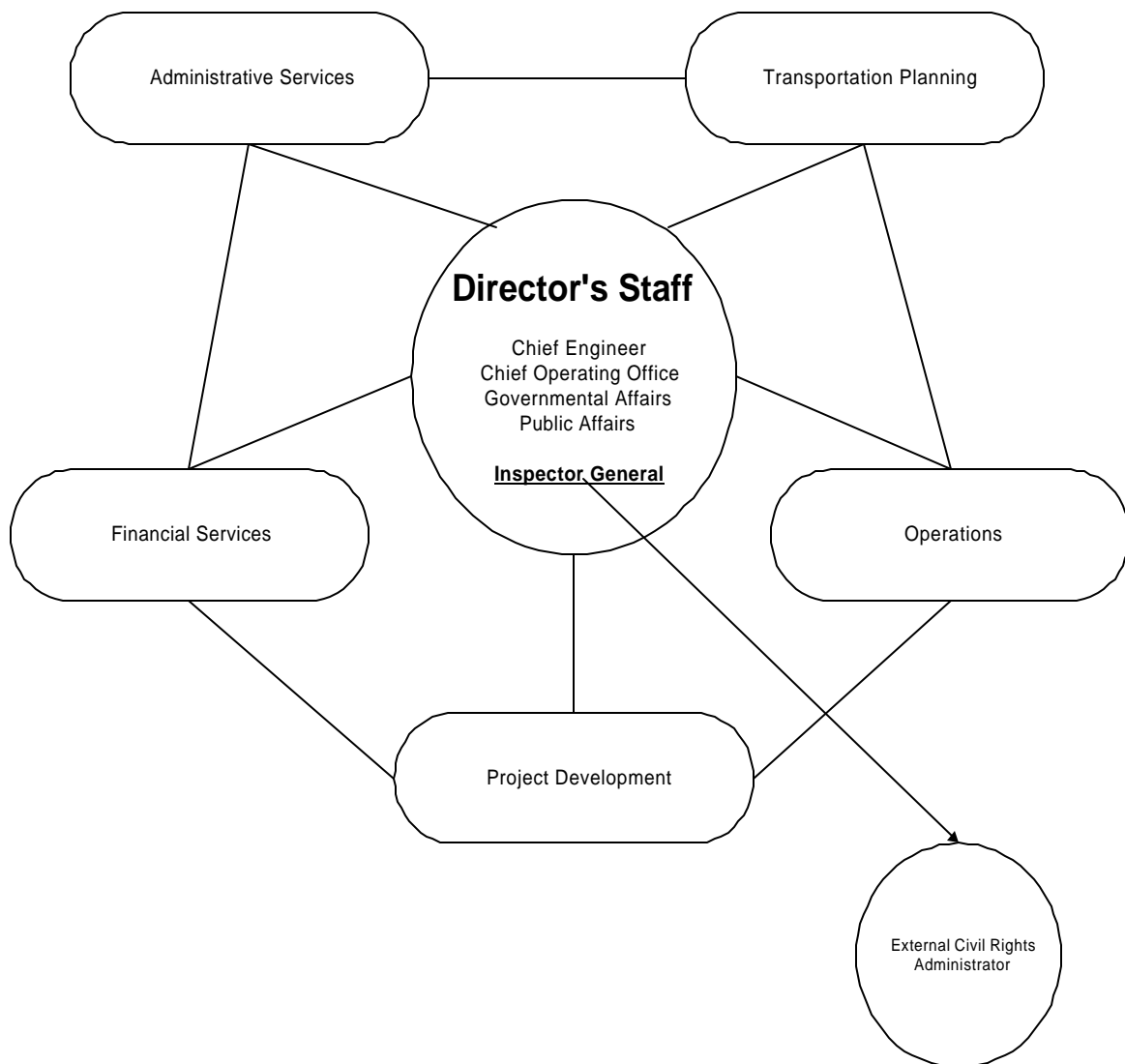
## **Attachments**

|                        |  |
|------------------------|--|
| <b>Attachment 1-A</b>  | <b>MoDOT Organizational Chart</b>                                  |
| <b>Attachment 1-B</b>  | <b>External Civil Rights Unit Organizational Chart</b>             |
| <b>Attachment 2</b>    | <b>MoDOT Personnel</b>   |
| <b>Attachment 3</b>    | <b>Mo. Revised Statutes, Chapt. 34, Sect. 4.057 Prompt Payment</b> |
| <b>Attachment 4</b>    | <b>MoDOT DBE Participation Sheet 8</b>                             |
| <b>Attachment 5</b>    | <b>Statement of Individual Personal Net Worth</b>                  |
| <b>Attachment 6</b>    | <b>Statement of Individual Personal Net Worth CPA Addendum</b>     |
| <b>Attachment 7</b>    | <b>Proposed State Regulations</b>                                  |
| <b>Attachment 8</b>    | <b>Availability Study</b>  |
| <b>Attachment 9</b>    | <b>Availability Study Addendum</b>                                 |
| <b>Attachment 10</b>   | <b>DBE Capacity Utilization Summary</b>                            |
| <b>Attachment 11</b>   | <b>Fiscal Year 1999 DBE Capacity Utilization Data</b>              |
| <b>Attachment 12</b>   | <b>State Funded Projects</b>                                       |
| <b>Attachment 12-A</b> | <b>Race Neutral Participation on State Funded Projects</b>         |
| <b>Attachment 13</b>   | <b>Federal Funded Projects</b>                                     |
| <b>Attachment 13-A</b> | <b>DBE Primes - Federal Funded Projects</b>                        |
| <b>Attachment 14</b>   | <b>Market Area Summary – FY2000</b>                                |
| <b>Attachment 15</b>   | <b>Market Area Data</b>  |

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**Attachment 1 -A**  
**MoDOT General Headquarters**

**Attachment 1-A**  
**Missouri Department of Transportation**  
General Headquarters  
Organizational Chart



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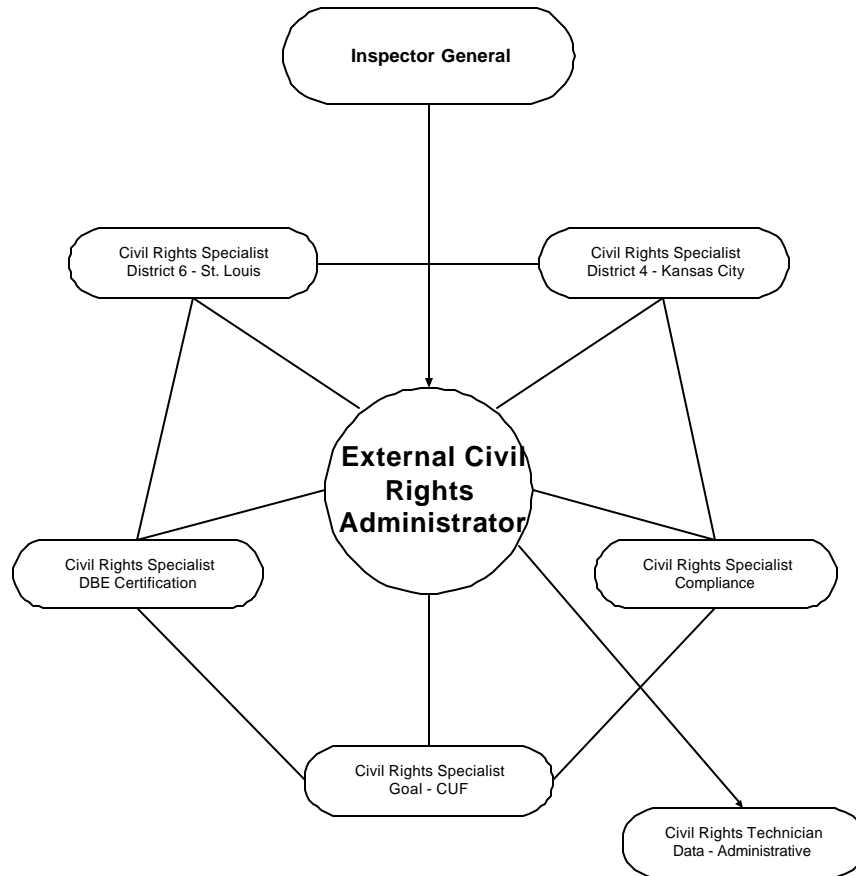
## Attachment 1-B

# MoDOT External Civil Rights Unit

Attachment 1-B

## Missouri Department of Transportation

General Headquarters  
Organizational Chart  
External Civil Rights Unit



Attachment 2

# MoDOT

General Headquarters  
105 West Capitol, P.O. Box 270  
Jefferson City, MO 65102-0270  
1 888 ASK-MODOT  
[dbb@mail.modot.state.mo.us](mailto:dbb@mail.modot.state.mo.us)  
[eeo@mail.modot.state.mo.us](mailto:eeo@mail.modot.state.mo.us)

**Henry Hungerbeeler**  
Director  
Phone (573) 751-4622  
Fax (573) 526-5419

**Mari Ann Winters**  
Secretary To The Commission  
Phone (573) 751-2824  
Fax (573) 526-5419

**Inspector General**  
Phone (573) 522-2698  
Fax (573) 526-5640

**Sharon M. Taegel**  
External Civil Rights Administrator  
Phone (573) 751-2859  
E-Mail [taeges@mail.modot.state.mo.us](mailto:taeges@mail.modot.state.mo.us)

**Byron Witherspoon**  
Intermediate Civil Rights Specialist  
Phone (314) 340-4337  
E-Mail [witheb1@mail.modot.state.mo.us](mailto:witheb1@mail.modot.state.mo.us)  
District 6 – Saint Louis

**Greg Wood**  
Special Assignments Liaison  
Phone (573) 751-7716  
E-Mail [woodg@mail.modot.state.mo.us](mailto:woodg@mail.modot.state.mo.us)  
Commercially Useful Function

**Eric J. Curtit**  
Intermediate Civil Rights Specialist  
Phone (573) 751-6801  
E-Mail [curtie@mail.modot.state.mo.us](mailto:curtie@mail.modot.state.mo.us)  
DBE Certification

**Donnetta Cole**  
Intermediate Civil Rights Specialist  
Phone (816) 889-6354  
E-Mail [coled1@mail.modot.state.mo.us](mailto:coled1@mail.modot.state.mo.us)  
District 4 – Kansas City

**Christa Luebbering**  
Intermediate Civil Rights Specialist  
Phone (573) 751-1216  
E-Mail [luebbc1@mail.modot.state.mo.us](mailto:luebbc1@mail.modot.state.mo.us)  
DBE Certification

**Carissa Hutson**  
Civil Rights Technician  
Phone (573) 751-7801  
E-Mail [hutsoc1@mail.modot.state.mo.us](mailto:hutsoc1@mail.modot.state.mo.us)  
Data & Administrative Service

# ***Missouri Revised Statutes***

## **Chapter 34**

### **State Purchasing and Printing**

#### **Section 34.057**

August 28, 1998

#### **Public works contracts--prompt payment by public owner to contractor-- prompt payment by contractor to subcontractor-- progress payments-- retainage--late payment charges-- withholding of payments.**

34.057. 1. Unless contrary to any federal funding requirements or unless funds from a state grant are not timely received by the contracting public municipality but notwithstanding any other law to the contrary, all public works contracts made and awarded by the appropriate officer, board or agency of the state or of a political subdivision of the state or of any district therein, including any municipality, county and any board referred to as the public owner, for construction, reconstruction or alteration of any public works project, shall provide for prompt payment by the public owner to the contractor and prompt payment by the contractor to the subcontractor and material supplier in accordance with the following:

- (1) A public owner shall make progress payments to the contractor on at least a monthly basis as the work progresses, or, on a lump sum basis according to the terms of the lump sum contract. Except in the case of lump sum contracts, payments shall be based upon estimates prepared at least monthly of work performed and material delivered, as determined by the project architect or engineer. Retainage withheld on public works projects shall not exceed five percent of the value of the contract or subcontract unless the public owner and the architect or engineer determine that a higher rate of retainage is required to ensure performance of the contract. Retainage, however, shall not exceed ten percent of the value of the contract or subcontract. Except as provided in subsection 4 of this section, the public owner shall pay the contractor the amount due, less a retainage not to exceed ten percent, within thirty days following the latter of the following:
  - (a) The date of delivery of materials or construction services purchased;
  - (b) The date, as designated by the public owner, upon which the invoice is duly delivered to the person or place designated by the public owner; or
  - (c) In those instances in which the contractor approves the public owner's estimate, the date upon which such notice of approval is duly delivered to the person or place designated by the public owner;
- (2) Payments shall be considered received within the context of this section when they are duly posted with the United States Postal Service or other agreed upon delivery service or when they are hand-delivered to an authorized person or place as agreed to by the contracting parties;
- (2) If, in the discretion of the owner and the project architect or engineer and the contractor, it is determined that a subcontractor's performance has been completed and the subcontractor can be released prior to substantial completion of the public works contract without risk to the public owner, the contractor shall request such adjustment in retainage, if any, from the public owner as necessary to enable the contractor to pay the subcontractor in full. The public owner may reduce or eliminate retainage on any contract payment if, in the public owner's opinion, the work is proceeding satisfactorily. If retainage is released and there are any remaining minor items to be completed, an amount equal to two hundred percent of the value of each item as determined by the public owner's duly authorized representative shall be withheld until such item or items are completed;

- (4) The public owner shall pay the retainage, less any offsets or deductions authorized in the contract or otherwise authorized by law, to the contractor after substantial completion of the contract work and acceptance by the public owner's authorized contract representative, or as may otherwise be provided by the contract specifications for state highway, road or bridge projects administered by the state highways and transportation commission. Such payment shall be made within thirty days after acceptance, and the invoice and all other appropriate documentation and certifications in complete and acceptable form are provided, as may be required by the contract documents. If at that time there are any remaining minor items to be completed, an amount equal to two hundred percent of the value of each item as determined by the public owner's representative shall be withheld until such items are completed;
- (5) All estimates or invoices for supplies and services purchased, approved and processed, or final payments, shall be paid promptly and shall be subject to late payment charges provided in this section. Except as provided in subsection 4 of this section, if the contractor has not been paid within thirty days as set forth in subdivision (1) of subsection 1 of this section, the contracting agency shall pay the contractor, in addition to the payment due him, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until fully paid;
- (6) When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier his application less any retention not to exceed ten percent. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. When, however, the public owner does not release the full payment due under the contract because there are specific areas of work or materials he is rejecting or because he has otherwise determined such areas are not suitable for payment then those specific subcontractors or suppliers involved shall not be paid for that portion of the work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid in full;
- (7) If the contractor, without reasonable cause, fails to make any payment to his subcontractors and material suppliers within fifteen days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of one and one-half percent per month, calculated from the expiration of the fifteen-day period until fully paid. This subdivision shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain;
- (8) The public owner shall make final payment of all moneys owed to the contractor, less any offsets or deductions authorized in the contract or otherwise authorized by law, within thirty days of the due date. Final payment shall be considered due upon the earliest of the following events:
  - (a) Completion of the project and filing with the owner of all required documentation and certifications, in complete and acceptable form, in accordance with the terms and conditions of the contract;
  - (b) The project is certified by the architect or engineer authorized to make such certification on behalf of the owner as having been completed, including the filing of all documentation and certifications required by the contract, in complete and acceptable form; or
  - (c) The project is certified by the contracting authority as having been completed, including the filing of all documentation and certifications required by the contract, in complete and acceptable form.

2. Nothing in this section shall prevent the contractor or subcontractor, at the time of application or certification to the public owner or contractor, from withholding such applications or certifications to the owner or contractor for payment to the subcontractor or material supplier. Amounts intended to be withheld shall not be included in such applications or certifications to the public owner or contractor. Reasons for withholding such applications or certifications shall include, but not be limited to, the following: unsatisfactory job progress; defective construction work or material not remedied; disputed work; failure to comply with other material provisions of the contract; third party claims filed or reasonable evidence that a claim will be filed; failure of the subcontractor to make timely payments for labor, equipment and materials; damage to a contractor or another subcontractor or material supplier; reasonable evidence that the contract can not be completed for the unpaid balance of the subcontract sum or a reasonable amount for retention, not to exceed the initial percentage retained by the owner.

3. Should the contractor determine, after application or certification has been made and after payment has been received from the public owner, or after payment has been received by a contractor based upon the public owner's estimate of materials in place and work performed as provided by contract, that all or a portion of the moneys needs to be withheld from a specific subcontractor or material supplier for any of the reasons enumerated in this section, and such moneys are withheld from such subcontractor or material supplier, then such undistributed amounts shall be specifically identified in writing and deducted from the next application or certification made to the public owner or from the next estimate by the public owner of payment due the contractor, until a resolution of the matter has been achieved. Disputes shall be resolved in accordance with the terms of the contract documents. Upon such resolution the amounts withheld by the contractor from the subcontractor or material supplier shall be included in the next application or certification made to the public owner or the next estimate by the public owner and shall be paid promptly in accordance with the provisions of this section. This subsection shall also apply to applications or certifications made by subcontractors or material suppliers to the contractor and throughout the various tiers of the contracting chain.

4. The contracts which provide for payments to the contractor based upon the public owner's estimate of materials in place and work performed rather than applications or certifications submitted by the contractor, the public owner shall pay the contractor within thirty days following the date upon which the estimate is required by contract to be completed by the public owner, the amount due less a retainage not to exceed five percent. All such estimates by the public owner shall be paid promptly and shall be subject to late payment charges as provided in this subsection. After the thirtieth day following the date upon which the estimate is required by contract to be completed by the public owner, the contracting agency shall pay the contractor, in addition to the payment due him, interest at a rate of one and one-half percent per month calculated from the expiration of the thirty-day period until fully paid.

5. Nothing in this section shall prevent the owner from withholding payment or final payment from the contractor, or a subcontractor or material supplier. Reasons for withholding payment or final payment shall include, but not be limited to, the following: liquidated damages; unsatisfactory job progress; defective construction work or material not remedied; disputed work; failure to comply with any material provision of the contract; third party claims filed or reasonable evidence that a claim will be filed; failure to make timely payments for labor, equipment or materials; damage to a contractor, subcontractor or material supplier; reasonable evidence that a subcontractor or material supplier cannot be fully compensated under its contract with the contractor for the unpaid balance of the contract sum; or citation by the enforcing authority for acts of the contractor or subcontractor which do not comply with any material provision of the contract and which result in a violation of any federal, state or local law, regulation or ordinance applicable to that project causing additional costs or damages to the owner.

6. Notwithstanding any other provisions in this section to the contrary, no late payment interest shall be due and owing for payments which are withheld in good faith for reasonable cause pursuant to subsections 2 and 5 of this section. If it is determined by a court of competent jurisdiction that a payment which was withheld pursuant to subsections 2 and 5 of this section was not withheld in good faith for reasonable cause, the court may impose interest at the rate of one and one-half percent per month calculated from the date of the invoice and may, in its discretion, award reasonable attorney fees to the prevailing party. In any civil action or part of a civil action brought pursuant to this section, if a court determines after a hearing for such purpose that the cause was initiated, or a defense was asserted, or a motion was filed, or any proceeding therein was done frivolously and in bad faith, the court shall require the party who initiated such cause, asserted such defense, filed such motion, or caused such proceeding to be had to pay the other party named in such action the amount of the costs attributable thereto and reasonable expenses incurred by such party, including reasonable attorney fees.

**Attachment 4**  
**MoDOT DBE Participation**  
**Bid Submittal (Sheet 8)**

Job No:  
Route:  
County:

(I). Identification of Participating DBE's: The information shown on this page may be completed and submitted with your bid. If this page is submitted with bid but not signed, it will not be cause for rejection. If it is not submitted with your proposal your bid will be deemed non-responsive.

(a) The undersigned submits the following list of DBE's to be used in accomplishing the work of this contract. The work, supplies or services, applicable value and percent of total federal contract each DBE is to perform or furnish is as follows:

(b) Joint venture with a DBE. The undersigned submits the following list of bid items the DBE prime is responsible for and any items that will be subcontracted out are noted with an asterisk or a similar notation. The work, applicable value and percentage of total federal contract the DBE prime is responsible for are as follows:

| DBE<br>Name &<br>Address | Bid<br>Item<br>Number | \$ Value of<br>DBE Work | % of<br>**\$ Value<br>Applic.to<br>DBE Goal | \$ Amt.<br>Applic.<br>to DBE<br>Goal | % of<br>Total<br>Federal<br>Contract |
|--------------------------|-----------------------|-------------------------|---|--------------------------------------|--------------------------------------|
|--------------------------|-----------------------|-------------------------|---|--------------------------------------|--------------------------------------|

1.

2.

3.

4.

5.

TOTAL DBE PARTICIPATION

\*\* Cannot exceed contract amount for given item of work.

Company: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_



# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

Complete This Form For (1) **Each** Socially Disadvantaged Proprietor, Or (2) **Each** Socially Disadvantaged Limited And General Partner Whose Combined Interest Totals 51% Or More, Or (3) **Each** Socially Disadvantaged Stockholder Making Up 51% Or More Of Voting Stock.

|                            |  |
|----------------------------|--|
| Business Name Of Applicant | Owner's Full Name (Maiden Name, If Applicable) |
| Business Address           | Residential Address                            |
| City, State & Zip Code     | City, State & Zip Code                         |
| Business Phone ( )         | Residence Phone ( )                            |
| Spouse's Full Name         | Date Of Marriage                               |

## Personal Financial Statement

### Section 1 Assets

#### Bank Accounts

| Name(S) On Account | Type Of Account<br>(See Codes *) | Bank Name And Address | Account Number | Account Status<br>(Joint, Single, Trust) | Date Opened | Current Balance |
|--------------------|----------------------------------|-----------------------|----------------|--|-------------|-----------------|
|                    |                                  |                       |                |  |             |                 |
|                    |                                  |                       |                |  |             |                 |
|                    |                                  |                       |                |  |             |                 |
|                    |                                  |                       |                |  |             |                 |
|                    |                                  |                       |                |  |             |                 |

\* PC-Personal Checking, PS- Personal Savings, RC-Revolving Credit, O-Other (Explain)

**Missouri Department Of Transportation**  
**Statement of Individual Personal Net Worth**

**Bonds**

Required Documentation May Include Bonds Certificates, Invoices, Bills Of Sale, Quotations, Estimate Of Value.

| Name(S) On Certificates | Name Of Securities | Date Acquired | Number Of Shares | Cost Per Share | Market Value Quotation/Exchange | Date Of Quotation/Exchange | Total Value |
|-------------------------|--------------------|---------------|------------------|----------------|---------------------------------|----------------------------|-------------|
|                         |                    |               |                  |                |                                 |                            |             |
|                         |                    |               |                  |                |                                 |                            |             |

**Assets Held In Trust**

Required Documentation May Include Trust Agreements, Valuation Of Assets.

| Name Of Settlor | Type Of Trust (Revocable Etc.) | Date Trust Established | Specific Assets Held | Value Of Assets | Method Of Valuation | Date Of Valuation | Trustee | Names Of Beneficiaries |
|-----------------|--------------------------------|------------------------|----------------------|-----------------|---------------------|-------------------|---------|------------------------|
|                 |                                |                        |                      |                 |                     |                   |         |                        |
|                 |                                |                        |                      |                 |                     |                   |         |                        |

**Life Insurance Held**

Required Documentation May Include Policies.

| Face Value Amount | Cash Surrender Amount | Insurance Company | Beneficiaries |
|-------------------|-----------------------|-------------------|---------------|
|                   |                       |                   |               |
|                   |                       |                   |               |
|                   |                       |                   |               |

**Other Personal Property & Assets**

Required Documentation May Include Invoices Or Bills Of Sale, Valuation, Note.

*(Include Total Value Of Household Good And Any Assets With A Current Value Over \$500.00)*

| Type Of Property Or Asset        | Value | Pledged Security (Y Or N) | Name & Address Of Lien Holder | Amount Of Lien | Terms Of Payment (Monthly, Etc.) |
|----------------------------------|-------|---------------------------|-------------------------------|----------------|----------------------------------|
| Total Value Of Household Goods   |       |                           |                               |                |                                  |
| Total Value Of Jewelry, Art, etc |       |                           |                               |                |                                  |
|                                  |       |                           |                               |                |                                  |
|                                  |       |                           |                               |                |                                  |

**Missouri Department Of Transportation**  
**Statement of Individual Personal Net Worth**

**Real Estate**

**Required Documentation May Include A Copy Of Deed For Each Parcel, Mortgage Note, Copy Of Instrument Of Conveyance.**

*(I.E. Property Settlement, Will, Etc.),*

|  | Property A | Property B | Property C |
|--|------------|------------|------------|
| Type Of Property   |            |            |            |
| Address  |            |            |            |
| Method Of Acquisition<br>(Purchase, Inherit, Divorce, Gift,<br>Etc.) |            |            |            |
| Date Acquired  |            |            |            |
| Name(S) On Deed  |            |            |            |
| Purchase Price   |            |            |            |
| Present Market Value   |            |            |            |
| Name Of Mortgage Holder  |            |            |            |
| Mortgage Account Number  |            |            |            |
| Mortgage Balance   |            |            |            |

**Section 2 - Liabilities**

**Unpaid Taxes**

**Required Documentation May Include Notice Of Tax Due.**

| Type Of Unpaid Tax | Payable To Whom | Date Due | Amount | Property Attached With Tax Lien |
|--------------------|-----------------|----------|--------|---------------------------------|
|                    |                 |          |        |                                 |
|                    |                 |          |        |                                 |
|                    |                 |          |        |                                 |
|                    |                 |          |        |                                 |
|                    |                 |          |        |                                 |

**Missouri Department Of Transportation**  
**Statement of Individual Personal Net Worth**

**Notes Payable To Banks And Others**

Required Documentation May Include Copy Of Note, Copy Of Security Agreement, Copy Of Most Recent Payment, Last Statement Of Account.

| Name(S) Of Borrower(S) | Name Of Note Holder(S) | Date Of Note | Original Balance | Current Balance | Payment Amount | Payment Terms (Monthly, Etc.) | Collateral |
|------------------------|------------------------|--------------|------------------|-----------------|----------------|-------------------------------|------------|
|                        |                        |              |                  |                 |                |                               |            |
|                        |                        |              |                  |                 |                |                               |            |
|                        |                        |              |                  |                 |                |                               |            |
|                        |                        |              |                  |                 |                |                               |            |

**Other Liabilities**

Required Documentation May Include Copy Of Most Recent Statement, Note Or Any Other Debt Instrument.

| Description            | Name Of Individual(S) Obligated (Designate If Co-Signer) | Name And Address Of Entity Owed | Date Of Obligation | Amount |
|------------------------|--|---------------------------------|--------------------|--------|
| Total Credit Card Debt |  |                                 |                    |        |
|                        |  |                                 |                    |        |
|                        |  |                                 |                    |        |
|                        |  |                                 |                    |        |

**Section 3 – Transfers**

**Transfer Of Assets**

Detail All Transfers Of Assets Within 180 Days Of The Date Of Signature

Required Documentation May Include Bill Of Sale Or Invoice, Transfer Document (Lease, Title, Deed, Etc.), Estimate, Or Valuation.

| Description Of Asset | Names On Deed, Title, Note Or Any Other Instrument Indicating Ownership Rights | Names Of Individual(S) Receiving Assets | Date Of Transfer | Value Or Consideration Received |
|----------------------|--|---|------------------|---------------------------------|
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |

**Missouri Department Of Transportation**  
**Statement of Individual Personal Net Worth**

**Section 4 – Business Ventures**

**Sole Proprietorships**

Required Documentation Must Include Business Financial Statement, Including Net Worth.

| Name Of Sole Proprietorship | Address | Business Value | Date Established | Primary Scope Of Operations |
|-----------------------------|---------|----------------|------------------|-----------------------------|
|                             |         |                |                  |                             |
|                             |         |                |                  |                             |
|                             |         |                |                  |                             |
|                             |         |                |                  |                             |

**General Partnerships, Joint Ventures**

Required Documentation Must Include Business Financial Statement, Including Net Worth.

| Name Of Partnership | Address | Partners | Business Value | % Of Ownership | Date Established | Primary Scope Of Operations |
|---------------------|---------|----------|----------------|----------------|------------------|-----------------------------|
|                     |         |          |                |                |                  |                             |
|                     |         |          |                |                |                  |                             |
|                     |         |          |                |                |                  |                             |
|                     |         |          |                |                |                  |                             |

**Limited Liability Corporations, Limited Partnerships, & Closely Held Corporations**

Required Documentation Must Include Business Financial Statement, Including Net Worth.

| Name Of Business | Name(s) Of Stockholders On Certificates | Date Acquired | Number Of Shares (or Units) | Total Outstanding Shares Of Stock (Or Units) | Cost Per Share | Market Value Quotation/Exchange | Date Of Quotation/Exchange | Total Value |
|------------------|---|---------------|-----------------------------|--|----------------|---------------------------------|----------------------------|-------------|
|                  |   |               |                             |  |                |                                 |                            |             |
|                  |   |               |                             |  |                |                                 |                            |             |
|                  |   |               |                             |  |                |                                 |                            |             |
|                  |   |               |                             |  |                |                                 |                            |             |

# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

### Publicly Traded Corporations

Required Documentation Must Include Business Financial Statement, Including Net Worth.

| Name Of Business | Name(s) Of Stockholders On Certificate | Date Acquired | Number Of Shares | Total Outstanding Shares Of Stock | Cost Per Share | Market Value Quotation/Exchange | Date Of Quotation/Exchange | Total Value |
|------------------|--|---------------|------------------|-----------------------------------|----------------|---------------------------------|----------------------------|-------------|
|                  |  |               |                  |                                   |                |                                 |                            |             |
|                  |  |               |                  |                                   |                |                                 |                            |             |
|                  |  |               |                  |                                   |                |                                 |                            |             |
|                  |  |               |                  |                                   |                |                                 |                            |             |

### Affidavit

I Authorize The Missouri Department Of Transportation To Verify The Accuracy Of The Statements Made In Order To Determine Whether I Meet The Standards Of Economic Disadvantage For Participation In The DBE Program With The Missouri Department Of Transportation. These Statements Are True And Correct To The Best Of My Knowledge And Belief.

Any Material Omission Or Misrepresentation Will Be Grounds For Terminating The Eligibility Of This Firm As A Certified Or Qualified DBE, As Well As Any Contract Which May Have Been Awarded Under Those Programs, And For Initiating Action Under Federal And/Or Missouri Civil And/Or Criminal Laws Concerning False Affidavits, False Statements Or Declarations, Perjury, Fraud, Stealing By Deceit, Or Other Applicable Offenses. (Making A False Affidavit Is A Misdemeanor. See Section 575.050, Rsmo 1986.)

|            |        |      |       |
|------------|--------|------|-------|
| Signature: | Title: | SSN: | Date: |
|------------|--------|------|-------|

Subscribed And Sworn To Before Me, The Undersigned, A Notary Public In And For Said County And State, This \_\_\_\_ Day Of \_\_\_\_\_, \_\_\_\_\_.

Notary Public

My Commission Expires:

# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

### CPA Addendum

This Addendum Must Be Completed By The Certified Public Accountant (CPA) Preparing Each Statement Of Personal Net Worth And Must Be Attached To That Statement Of Personal Net Worth. In Addition, The CPA Must View The Documentation Necessary To Attest To The Completeness And Accuracy Of The Addendum.

All Documents Used In The Preparation Of The Statement Of Personal Net Worth And Addendum Are Subject To Review By MoDOT Personnel Upon Request. Failure To Comply Or Falsification Of Information May Be Grounds For Removal From The DBE Program And Any Other Legal Remedies Available Under State Or Federal Law.

**Note:** All Interests, Assets, And Liabilities Individually And Jointly Held ***Must*** Be Included.

|                                 |  |
|---------------------------------|--|
| Business Name Of Applicant Firm | Owner's Full Name (Maiden Name, If Applicable) |
| Business Address                | Residential Address                            |
| City, State & Zip Code          | City, State & Zip Code                         |
| Business Phone ( )              | Residence Phone ( )                            |
| Spouse's Full Name              | Date Of Marriage                               |

## Section 1 Assets

### Bank Accounts

**'C-Personal Checking, PS- Personal Savings, RC-Revolving Credit, MM – Money Market, O-Other (Explain)**

| Name(S) On Account | Type Of Account<br>(See Codes *) | Current Balance |
|--------------------|----------------------------------|-----------------|
|                    |                                  |                 |
|                    |                                  |                 |
|                    |                                  |                 |
|                    |                                  |                 |
|                    |                                  |                 |

### Bonds

| Name(S) On Certificates | Name Of Securities | Number Of Shares | Market Value Quotation/Exchange | Total Value |
|-------------------------|--------------------|------------------|---------------------------------|-------------|
|                         |                    |                  |                                 |             |
|                         |                    |                  |                                 |             |

### Assets Held In Trust

| Name Of Settlor(s) | Value Of Assets | Trustee | Name(s) Of Beneficiaries |
|--------------------|-----------------|---------|--------------------------|
|                    |                 |         |                          |
|                    |                 |         |                          |

# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

### CPA Addendum

#### Life Insurance Held

| Insurance Company | Face Value | Surrender Value | Name(s) Of Beneficiaries |
|-------------------|------------|-----------------|--------------------------|
|                   |            |                 |                          |
|                   |            |                 |                          |
|                   |            |                 |                          |
|                   |            |                 |                          |

#### Other Personal Property & Assets

| Type Of Property Or Asset        | Value | Amount Of Lien | Name Of Lien Holder |
|----------------------------------|-------|----------------|---------------------|
| Total Value Of Household Goods   |       |                |                     |
| Total Value Of Jewelry, Art, etc |       |                |                     |
|                                  |       |                |                     |
|                                  |       |                |                     |

#### Real Estate

|                         | Property A | Property B | Property C | Property D |
|-------------------------|------------|------------|------------|------------|
| Type Of Property        |            |            |            |            |
| Address                 |            |            |            |            |
| Name(S) On Deed         |            |            |            |            |
| Present Market Value    |            |            |            |            |
| Name Of Mortgage Holder |            |            |            |            |
| Mortgage Balance        |            |            |            |            |

## Section 2 - Liabilities

#### Unpaid Taxes

| Type Of Unpaid Tax | Payable To Whom | Amount |
|--------------------|-----------------|--------|
|                    |                 |        |
|                    |                 |        |

#### Notes Payable To Banks And Others

| Name(S) Of Borrower(S) | Name Of Note Holder(S) | Current Balance | Collateral |
|------------------------|------------------------|-----------------|------------|
|                        |                        |                 |            |
|                        |                        |                 |            |
|                        |                        |                 |            |
|                        |                        |                 |            |



# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

### CPA Addendum

#### Other Liabilities

| Description                   | Name Of Individual(S) Obligated | Name Of Entity Owed | Amount |
|-------------------------------|---------------------------------|---------------------|--------|
| <i>Total Credit Card Debt</i> |                                 | <i>N/A</i>          |        |
|                               |                                 |                     |        |
|                               |                                 |                     |        |
|                               |                                 |                     |        |

### Section 3 – Transfers

#### Transfer Of Assets

Detail All Transfers Of Assets Within 180 Days Of The Date Of DBE Application .

| Description Of Asset | Name(s) On Owner Transferring Property | Names Of Individual(S) Acquiring Assets | Date Of Transfer | Value Or Consideration Received |
|----------------------|--|---|------------------|---------------------------------|
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |
|                      |  |   |                  |                                 |

### Section 4 – Business Ventures

#### Sole Proprietorships

| Name Of Sole Proprietorship | Address | Business Net Worth |
|-----------------------------|---------|--------------------|
|                             |         |                    |
|                             |         |                    |

#### General Partnerships, Joint Ventures

| Name Of Partnership | Address | Partners | % Of Ownership | Business Net Worth |
|---------------------|---------|----------|----------------|--------------------|
|                     |         |          |                |                    |
|                     |         |          |                |                    |

#### Limited Liability Corporations, Limited Partnerships, Closely Held Corporations

| Name Of Business | Name(s) Of Stockholders On Certificates | Number Of Shares Owned (or Units) | Total Outstanding Shares (Or Units) | Market Value (Quotation/ Exchange) | Total Value |
|------------------|---|-----------------------------------|-------------------------------------|------------------------------------|-------------|
|                  |   |                                   |                                     |                                    |             |
|                  |   |                                   |                                     |                                    |             |
|                  |   |                                   |                                     |                                    |             |
|                  |   |                                   |                                     |                                    |             |

# Missouri Department Of Transportation

## Statement of Individual Personal Net Worth

### CPA Addendum

#### Publicly Traded Corporations

| Name Of Business | Name(s) Of Stockholders<br>On Certificate (s) | Number Of Shares<br>Owned | Total<br>Outstanding<br>Shares Of Stock | Market Value<br>(Quotation/<br>Exchange) | Total<br>Value |
|------------------|---|---------------------------|---|--|----------------|
|                  |   |                           |   |  |                |
|                  |   |                           |   |  |                |
|                  |   |                           |   |  |                |
|                  |   |                           |   |  |                |

#### Affidavit

I Authorize The Missouri Department Of Transportation To Verify The Accuracy Of The Statements Made In Order To Determine Whether I Meet The Standards Of Economic Disadvantage For Participation In The DBE Program With The Missouri Department Of Transportation. These Statements Are True And Correct To The Best Of My Knowledge And Belief.

Any Material Omission Or Misrepresentation Will Be Grounds For Terminating The Eligibility Of This Firm As A Certified Or Qualified DBE, As Well As Any Contract Which May Have Been Awarded Under Those Programs, And For Initiating Action Under Federal And/Or Missouri Civil And/Or Criminal Laws Concerning False Affidavits, False Statements Or Declarations, Perjury, Fraud, Stealing By Deceit, Or Other Applicable Offenses. (Making A False Affidavit Is A Misdemeanor. See Section 575.050, Rsmo 1986.)

|                               |               |                   |              |              |
|-------------------------------|---------------|-------------------|--------------|--------------|
| <b>Prepared By:</b>           |               | <b>Signature:</b> |              | <b>Date:</b> |
| <b>Applicant's Signature:</b> | <b>Title:</b> | <b>SSN:</b>       | <b>Date:</b> |              |

Subscribed And Sworn To Before Me, The Undersigned, A Notary Public In And For Said County And State,

This \_\_\_\_ Day Of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

# Title 7

## DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

Division 10 – Missouri Highways and Transportation Commission  
Chapter 8 – Disadvantaged Business Enterprise Program

### PROPOSED RULE

#### 7 CSR 10-8.011 Definitions

**PURPOSE:** *This rule defines terms applicable to the Disadvantaged Business Enterprise (DBE) Program established by the Missouri Department of Transportation (MoDOT) in this Chapter, in accordance with Title 49 Code of Federal Regulations Part 26, Section 1101(b) of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113, and in accordance with MoDOT's approved DBE Program submittals to the U.S. Department of Transportation (USDOT).*

(1) The following words and phrases have the same meaning and definition in MoDOT's DBE Program as they have been given by USDOT in Title 49 CFR Section 26.5: "Affiliation"; "Alaska Native"; "Alaska Native Corporation" or "ANC"; "Immediate family member"; "Indian tribe"; "Joint venture"; "Native Hawaiian"; "Native Hawaiian Organization"; "Personal net worth"; "Primary industry classification"; "Principal place of business"; "Set-aside"; "Small Business Administration"; "Tribally-owned concern".

(2) The following words and phrases have the meaning and definition stated below, exclusively for the purpose of administering and regulating the DBE Program established by MoDOT in this Chapter:

(A) "CFR" means the Code of Federal Regulations, published by the Office of the Federal Register, National Archives and Records Administration, through the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402-9328.

(B) "Commission" means the Missouri Highways and Transportation Commission, a state agency created by statute and vested with authority by Article IV, Section 29, Missouri Constitution.

(C) "Compliance" when used with respect to MoDOT or another USDOT recipient, means that recipient has correctly implemented the requirements of 49 CFR Part 26. When used regarding a contractor, subcontractor or supplier on a USDOT-assisted Commission contract with funding authority described in 49 CFR § 26.3 (or successor funding thereto), "compliance" means that contractor, subcontractor or supplier has

correctly implemented the requirements of this chapter, the relevant DBE Program provisions of the Commission contract, and 49 CFR Part 26.

(D) "Contract" means a legally binding relationship obligating a seller (including but not limited to a contractor, subcontractor or supplier) to furnish supplies or services (including but not limited to construction and professional services) and the buyer to pay for them. For the purposes of this chapter, either a lease or a subcontract is considered to be a contract.

(E) "Contractor" means a person or firm which receives a contract directly from the Commission or another USDOT recipient in a USDOT-assisted highway, transit or airport program, to perform construction (of all types including maintenance and repair) work, project design, design-build, or other professional services.

(F) "CSR" means the Code of State Regulations for the State of Missouri, published by the Secretary of State of Missouri.

(G) "DBE" means a disadvantaged business enterprise.

(H) "Department" means the Missouri Department of Transportation or "MoDOT", a constitutional state department answerable and subordinate to the Commission within the Executive Branch of Missouri government, which entity is also described in Missouri law as the Missouri Highways and Transportation Department; unless the context and usage of the term clearly indicates that it is referring to the United States Department of Transportation or "USDOT".

(I) "Disadvantaged business enterprise" means a for-profit small business concern--

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation or other business entity, in which 51 percent of the stock or shares are owned by one or more socially and economically disadvantaged individuals; and

2. Whose management and daily business operations are controlled by one or more of those socially and economically disadvantaged individuals who own it.

(J) "FAA" means the Federal Aviation Administration within USDOT, including its Administrator and his or her designees.

(K) "FHWA" means the Federal Highway Administration within USDOT, including its Administrator and his or her designees.

(L) "FTA" means the Federal Transit Administration within USDOT, including its Administrator and his or her designees.

(M) "MoDOT" means the Missouri Department of Transportation, which is also described in Missouri law as the Missouri Highways and Transportation Department.

(N) "Noncompliance" when used with respect to MoDOT or another USDOT recipient, means that recipient has not correctly implemented the requirements of 49 CFR Part 26. When used regarding a contractor, subcontractor or supplier on a USDOT-assisted Commission contract with funding authority described in 49 CFR § 26.3 (or successor funding thereto), "compliance" means that contractor, subcontractor or supplier has not correctly implemented either the requirements of this chapter, or the relevant DBE Program provisions of the Commission contract, or 49 CFR Part 26, or a combination of those legal requirements.

(O) "Race- and gender-conscious" measure or program is one that is focused specifically on assisting only businesses owned and controlled by members of certain racial groups and/or the feminine gender, such as businesses which qualify for DBE program certification under USDOT's definition of a "socially and economically disadvantaged individual" at 49 CFR § 26.5, using a rebuttable presumption to classify persons as "disadvantaged" or not based upon their race, national origin or ancestry, or female gender.

(P) "Race- and gender-neutral" measure or program is one that is, or can be, used to assist all small businesses, regardless of the race, national origin or ancestry, or gender, of the persons who own and control those businesses.

(Q) "Recipient" is any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA; or else it is an entity that has applied for such assistance. MoDOT is usually a "primary recipient" of USDOT financial assistance, but then MoDOT may pass some of that funding through to other recipients. A person or firm which is providing construction, design or other professional services, or materials, supplies or equipment, for a recipient's USDOT-assisted project as a contractor, subcontractor or supplier, is not a "recipient" for the purposes of this chapter.

(R) "Small business concern", with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, means a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121), that also does not exceed the cap on average annual gross receipts specified in 49 CFR § 26.65(b).

(S) "Socially and economically disadvantaged individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is--

1. Any individual who a recipient finds to be socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or native Hawaiians;
- iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- Women;
- vii. Any additional groups whose members are designated as socially and economically disadvantaged by the U.S. Small Business Administration (SBA), at such time as the SBA designation becomes effective.

3. Provided, however, that no individual can qualify as "economically disadvantaged" or be considered "socially and economically disadvantaged" if his or her personal net worth (computed as directed under 49 CFR Part 26 and its Appendix E) exceeds the maximum amount specified in 49 CFR § 26.67(b) and (d), as that amount may be adjusted by USDOT.

(T) "Subcontractor" means a person or firm which does not receive a contract directly from the Commission or another USDOT recipient in a USDOT-assisted highway, transit or airport program, but instead contracts with a contractor or subcontractor in that program, to perform construction (of any type including maintenance and repair) work,

project design, design-build, or other professional services, to help complete a USDOT-assisted highway, transit or airport project.

(U) "Supplier" means a person or firm which provides exclusively materials, supplies or equipment, but not construction, design, or other professional services, by contract with the Commission or another USDOT recipient, or with a contractor or a subcontractor.

(V) "TEA-21" means the federal Transportation Equity Act for the 21st Century, Public Law 105-178, 112 Stat. 107 et seq., and any of its sections or provisions.

(W)"USDOT" refers to the U.S. Department of Transportation, including the Secretary of Transportation, the Office of the Secretary, the FHWA, the FTA and the FAA, or any one of these administrative units of the U.S. Department of Transportation.

(X) "USDOT-assisted contract" means any contract between the Commission (or other USDOT recipient) and a contractor or supplier funded in whole or in part with USDOT financial assistance. This term also includes lower tier contracts between the contractor and a subcontractor or a supplier, or between a subcontractor and a supplier, for any services or supplies needed to perform the contract work which is being funded in whole or in part with USDOT financial assistance.

(3) Throughout this chapter, the term "firm" shall be used to refer to any private legal person or business entity which may lawfully exist under the laws of Missouri or its state of creation, and which may contract to perform any services, or to provide or sell any materials or supplies. The term "firm" shall be deemed to include (but not be limited to) an individual, corporation, partnership, limited partnership, joint venture, limited liability company, or a professional corporation. However, the term "firm" shall not include any "not for profit" corporation or other "not for profit" entity, and shall not include any public governmental entity. Furthermore, the firm and any fictitious name used by the firm must, to the extent required by Missouri law, be properly registered to do business in Missouri with the Missouri Secretary of State and the Missouri Department of Revenue, before that firm may perform work or sell materials or supplies in Missouri as a contractor, subcontractor, supplier, or any DBE firm recognized by MoDOT.

*AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.*

## 7 CSR 10-8.021 General Information

**PURPOSE:** *This rule provides general information regarding MoDOT's implementation of the DBE Program requirements of Title 49 Code of Federal Regulations Part 26 in USDOT-assisted programs and contracts.*

(1) USDOT-Required DBE Program. The Missouri Highways and Transportation Commission, through MoDOT, has been and is the recipient of federal-aid highway funds, federal transit funds, and airport funds, as described in 49 CFR § 26.3. Some of these funds the Commission, through MoDOT, expends directly by awarding a contract for design, construction or other professional services, or supplies, to a contractor or supplier. Some of these federal funds the Commission, through MoDOT, transfers to other recipients, for them to expend through appropriate contracts. In accordance with 49 CFR § 26.3 and the provisions of various federal laws such as TEA-21 which it implements and enforces, the provisions of Title 49 CFR Part 26 are applicable to the Commission, MoDOT, and all other recipients of USDOT financial assistance through MoDOT; as well as to the contractors, subcontractors and suppliers which receive USDOT-assisted contracts from the Commission and all other recipients of USDOT financial assistance through MoDOT, from the funding sources described in 49 CFR § 26.3 (or their successor sources). The Commission,

MoDOT, all other recipients of such funds through MoDOT, and their contractors, subcontractors and suppliers on USDOT-assisted contracts, are bound by the provisions of Title 49 CFR Part 26; and they are also bound by the Commission's DBE Program regulations in this Chapter. Some recipients of USDOT funding through MoDOT, including those described in 49 CFR § 26.21, may be required by such federal regulations to have their own DBE Program. Those recipients of USDOT funding through MoDOT are required to comply with the applicable provisions of this Chapter, and to develop other portions of their own DBE program in cooperation with and under the supervision of the USDOT.

(2) MoDOT's DBE Program Policy Statement. MoDOT has developed and filed with USDOT its signed and dated "Policy Statement" pursuant to 49 CFR § 26.23, stating MoDOT's commitment to the DBE Program, as follows:

The Missouri Department of Transportation (MoDOT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. MoDOT has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, MoDOT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy and commitment of MoDOT that disadvantaged businesses, as defined in 49 CFR Part 26, shall have a level playing field to participate in the performance of contracts financed in whole or part with federal funds. It is also the policy of MoDOT to:

- ❖ **Ensure nondiscrimination in the award and administration of USDOT assisted contracts;**
- ❖ **Create a level playing field on which DBE firms can compete fairly for USDOT assisted contracts;**
- ❖ **Ensure that the DBE Program is narrowly tailored in accordance with applicable law;**
- ❖ **Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE firms;**
- ❖ **Assist in the removal of barriers to the participation of DBE firms in USDOT assisted contracts; and**
- ❖ **Assist in the development of firms to enhance the ability to compete successfully in the market place outside the DBE Program.**

The External Civil Rights Administrator has been designated as the DBE Liaison Officer. In that capacity, the administrator is responsible for the implementation of all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the MoDOT in its financial assistance agreements with the USDOT.

MoDOT will advise each contractor, through contract specifications, that failure to carry out these requirements shall constitute a breach of contract and may result in termination of the contract, or any such remedy that MoDOT deems appropriate. MoDOT will require all employees and agents to adhere to the provisions of 49 CFR Part 26.

MoDOT shall annually submit to the Federal Highway Administration (FHWA) overall goals for the participation of DBE firms for a one year period of time. The goal shall be analyzed, and adjusted if necessary, at the end of each federal fiscal year.

/s/ Henry Hungerbeeler, Director      Dated September 30, 1999

(3) DBE Program Applicable Only to USDOT-Assisted Contract Work. In accordance with 49 CFR § 26.3(d) and other provisions of federal law, the USDOT DBE Program at 49 CFR Part 26, and the Commission's DBE Program regulations in this Chapter, only apply to USDOT-assisted contracts awarded by USDOT funding recipients. If the Commission or a recipient is bidding or awarding a contract which involves no USDOT funding, and which will be paid or financed entirely with state or local funding, or other federal funding not covered by DBE Program requirements, then 49 CFR Part 26 and the Commission's DBE Program regulations in this Chapter do not apply to such contract work. Although the Commission and MoDOT are implementing race- and gender-neutral measures and programs to assist small businesses as they are able to, the Commission and MoDOT have no DBE Program applicable to contract work which is entirely state-funded or state and local-funded, and the provisions of this Chapter do not apply to such state-funded or state and local-funded contract work. Any Commission "Request for Bid" will clearly indicate whether an included project is a federal project or not, and if so, it will contain information on the DBE contract goal, if any. Any recipient of USDOT funding specified in 49 CFR § 26.3 through MoDOT must provide the same information in its bidding documents.

(4) The Administration of the Commission's DBE Program. The Missouri Highways and Transportation Commission has adopted these DBE Program regulations for MoDOT, which executive branch department of state government is subordinate to and controlled by the Commission through the Commission's appointee, the MoDOT Director, who is MoDOT's Chief Executive Officer. The administration of the DBE Program within MoDOT has been assigned to the External Civil Rights Administrator, who has been designated as MoDOT's DBE Liaison Officer in compliance with 49 CFR § 26.25. The External Civil Rights Administrator supervises the External Civil Rights Unit, and reports directly to MoDOT's Inspector General, who is in turn, supervised by the MoDOT Director. However, the External Civil Rights Administrator retains direct and independent access to MoDOT's Director, Chief Engineer, and all other members of the Director's staff, concerning all DBE Program matters. As the DBE Liaison Officer, MoDOT's External Civil Rights Administrator develops, manages, and administers the DBE Program, including defining processes, procedures, and operational policies, and is responsible for implementing all aspects of MoDOT's DBE Program. The External Civil Rights Administrator directs and controls the staff of the External Civil Rights Unit, and receives assistance as necessary from the Inspector General, other MoDOT staff and Commission legal counsel, and occasionally from Commission-retained consultants and contractors, so that MoDOT has adequate staff to administer this DBE Program in compliance with 49 CFR Part 26. The External Civil Rights Administrator works closely with the Commission's Chief Counsel's Office to review DBE policies and contract provisions periodically, to ensure that they conform to state and federal law; and reviews program administration issues with the Commission attorneys assigned DBE Program responsibilities.

(5) Duties of the External Civil Rights Administrator. The External Civil Rights Administrator performs the following duties and responsibilities, either directly and personally, or through the staff of the External Civil Rights Unit:

(A) Setting and approving DBE contract goals on federal aid construction projects, including projects administered by local public agencies, aviation and transit authorities, or any other recipient receiving USDOT assistance through MoDOT.

(B) Monitoring the DBE contract goals to verify contractor compliance at the time of the bid, when the contract is awarded, during project construction, and at the time of project acceptance.

(C) With the assistance of MoDOT field staff plus other contractors and subcontractors, monitoring DBE performance to determine that the DBE firm has performed a commercially useful function, and has otherwise complied with the requirements of 49 CFR Part 26 in that contract work.

(D) Overseeing all support services provided to certified DBEs by MoDOT.



(E) Gathering and reporting statistical data and other information as required by USDOT.

(F) Reviewing third party contracts and purchase requisitions for DBE Program compliance.

(G) Working with MoDOT management, business units and staff to set the annual DBE Program goal, as well as individual project or contract goals.

(H) Ensuring that bid notices and bidding documents are made available to DBE firms in a timely manner.

(I) Identifying USDOT-assisted contracts and procurement, to include DBE contract goals (factoring in both race- and gender-neutral contracting methods as well as contract goals preferential to DBE firms) in bid solicitations, and monitoring the results of those bids.

(J) Analyzing MoDOT's progress toward annual DBE Program goal attainment, and identifying various race- and gender-neutral or other ways to achieve the annual DBE Program goal.

(K) Participating in pre-bid meetings.

(L) Advising the Commission and MoDOT's Director on DBE Program matters and the achievement of MoDOT and USDOT program requirements.

(M) Providing DBE firms with information and assistance in preparing bids, and obtaining bonding and insurance.

(N) Planning and participating in DBE training seminars.

(O) Providing outreach to DBEs and community organizations to advise of training, contracting and other business opportunities available.

(P) Maintaining the MoDOT DBE Directory, its addenda and updates.

(R) Performing any other functions and duties necessary or appropriate to administer and enforce the provisions of 49 CFR Part 26 and this Chapter in Missouri.

(6) Contacting MoDOT's DBE Liaison Officer. MoDOT's External Civil Rights Administrator is MoDOT's DBE Liaison Officer. MoDOT's DBE Liaison Officer may be contacted in writing or by telephone as follows:

External Civil Rights Administrator  
Missouri Department of Transportation  
105 West Capitol Avenue, P.O. Box 270  
Jefferson City, Missouri 65102-0270

Fax Number: (573) 526-5640  
Telephone Number: 1-888-ASK MODOT (1-888-275-6636)  
E-Mail: taeges@mail.modot.state.mo.us

(7) DBE Directory. MoDOT publishes a directory annually, with monthly updates, identifying certified DBE firms willing to perform as subcontractors on MoDOT's USDOT-assisted projects. Copies of the directory are mailed annually to all contractors authorized to do business with MoDOT, DBE firms, DBE organizations, contractor organizations, local public agencies, MoDOT district offices, and any other entity requesting copies. Monthly addenda (showing DBE firm additions and deletions, and other certification changes) are mailed to all firms and entities receiving notices of bid openings, and to plan holders, DBE firms, DBE organizations, contractor organizations, local public agencies, MoDOT district offices, and any other entity requesting copies. The firms contained in the DBE Directory and its addenda are certified as meeting the certification eligibility requirements of 49 CFR Part 26 and this Chapter, unless the addenda specifically lists the firm as not certified any longer. The directory contains each DBE firm name, address, phone, fax, socially and economically disadvantaged owner's name, the work categories in which the firm may perform DBE certified contract work, and the geographic work area in Missouri preferred by the DBE firm. MoDOT has made the DBE Directory available electronically to all MoDOT district offices, and to the public on the

internet. Paper copies of the DBE Directory are available by contacting MoDOT's DBE Liaison Officer or staff members in writing or by telephone as follows:

External Civil Rights Administrator  
Missouri Department of Transportation  
105 West Capitol Avenue, P.O. Box 270  
Jefferson City, Missouri 65102-0270

Fax Number: (573) 526-5640  
Telephone Number: 1-888-ASK MODOT (1-888-275-6636)  
E-Mail: temmek@mail.modot.state.mo.us

(8) MoDOT's Non-Discrimination Policy. MoDOT will not exclude any person from participating in, deny any person the benefits of, or otherwise discriminate against any person in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. Further, MoDOT will not, directly or through contractual or other arrangements, use criteria or methods that have the effect of defeating or substantially impairing accomplishment of the objectives of the USDOT or MoDOT DBE Program with respect to individuals of a particular race, color, sex, or national origin, in MoDOT's administration of the DBE Program. The Commission and MoDOT are bound by, and agree to comply with, all requirements of USDOT's 49 CFR Part 26, the provisions of which are incorporated into this rule.

(9) DBE Program Duration and Updates. MoDOT will continue to carry out the DBE program until all funds from the USDOT financial assistance have been expended, or Congress has terminated the DBE Program. MoDOT will provide USDOT with updates and revised program submissions representing any significant changes in the MoDOT DBE Program.

(10) No Quotas or Set-Asides. MoDOT does not use quotas or set-asides in any way in the administration of the DBE program.

(11) Measures Taken in Anticipation of a Unified Certification Process.

(A) In anticipation of the Unified Certification Process (UCP) and its inherent cooperative program administration, as required by USDOT at 49 CFR § 26.81, MoDOT has submitted to USDOT one DBE Program which incorporates all modes and agencies within the USDOT, including the FTA and FAA programs. The MoDOT External Civil Rights Unit and its Administrator will work closely with the FTA and FAA program administrators to develop uniform certification and reporting processes.

(B) The External Civil Rights Unit is responsible for the administration of the DBE program for all USDOT agency requirements. This DBE Program administration includes goal setting for concurrence, participation, verification, and DBE certification.

(C) Any recipients of USDOT funding through the Commission and MoDOT will be required to comply with MoDOT's DBE program, unless they have a USDOT-approved program of their own. The requisite MoDOT DBE Program compliance includes, but is not limited to, observing all provisions of this Chapter and MoDOT's approved DBE Program which govern MoDOT's recipients of USDOT funding; and inserting the necessary provisions in their contracts to assure that their contractors, subcontractors and suppliers comply with the applicable provisions of this Chapter and MoDOT's approved DBE Program. Once a statewide UCP is defined, all recipients will be required to accept only those firms certified under the UCP agreement. All Block Grant recipients will continue to be required to comply with leasing goals established by the sponsoring agency.

(12) Financial Institutions Owned and Controlled by Socially and Economically Disadvantaged Persons. MoDOT will identify and determine the full extent of services offered by financial

institutions owned and controlled by socially and economically disadvantaged persons in Missouri. MoDOT will make reasonable efforts to use the services of these institutions, within the scope permitted by state law. MoDOT will encourage prime contractors and other firms to use the services of those financial institutions which are owned and controlled by socially and economically disadvantaged persons.

(13) Required Contract Clauses in USDOT-Assisted Contracts and Subcontracts.

(A) Pursuant to 49 CFR §26.13(a), each financial assistance agreement the Commission or MoDOT signs with a USDOT operating administration, or with another primary recipient of USDOT funding subject to 49 CFR Part 26, shall contain the following assurance, in which "DOT" and "the Department" refer to USDOT:

***"The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award or performance of any DOT-assisted contract, or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."***

(B) As mandated by 49 CFR § 26.13(b), MoDOT will require the following assurance to be included in every USDOT-assisted contract which MoDOT or the Commission signs with a contractor, and each subcontract that prime contractor signs with a subcontractor; where "DOT" refers to USDOT and "the recipient" means MoDOT and the Commission:

***"The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out all applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."***

(14) Overconcentration of DBE Firms. USDOT rule 49 CFR §26.33(a) provides that if MoDOT determines that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, MoDOT must devise appropriate measures to address that overconcentration. MoDOT has not identified any types of work in which DBE firms are so overconcentrated. MoDOT will continue to monitor DBE firm participation and usage, and will take appropriate action to address any identified DBE firm overconcentration in a certain type of work.

(15) Mentor-Protégé Program. USDOT rule 49 CFR § 26.35 discusses mentor-protégé programs in the context of the DBE Program. MoDOT will not be participating in a mentor-protégé program at this time.

(16) Program Violations, or False or Fraudulent Claims or Conduct. MoDOT will notify USDOT of any program violations, or suspected false, fraudulent or dishonest conduct, in connection with the

DBE Program, in order for USDOT (and/or the U.S. Department of Justice) to take any of the compliance procedures, enforcement actions or sanctions provided in 49 CFR Part 26, Subpart F. These procedures, actions or sanctions include, but are not limited to: suspension or termination of federal funding; refusal to approve projects, grants or contracts until deficiencies are remedied; U.S. government-wide suspension or debarment proceedings under 49 CFR Part 29; available Program Fraud and Civil Remedies provided for in 49 CFR Part 31; or criminal prosecution under 18 U.S.C. § 1001 or other applicable provisions of law. MoDOT will also consider initiating compliance procedures, enforcement actions or sanctions available under Missouri civil, criminal, contract law, or in equity. The Commission and MoDOT will consider whether the conduct at issue affects the determination of that entity's responsibility as a contractor, and thus, the entity's eligibility to receive future Commission contracts.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.031 Who is Governed and Bound By the USDOT and MoDOT DBE Program Regulations

**PURPOSE:** *This regulation describes which individuals, entities and firms are governed and bound by the DBE Program regulations in this Chapter, the USDOT DBE Program regulations at 49 CFR Part 26, and the USDOT-approved MoDOT DBE Program submissions.*

(1) USDOT DBE Regulations Incorporated Into these Rules. The USDOT DBE Program rules at 49 CFR Part 26 are adopted by the Commission, and incorporated into these MoDOT DBE Program rules. To the extent that any individual, entity or firm is governed by the DBE Program regulations in this Chapter, that individual, entity or firm is also governed and bound by the corresponding USDOT DBE Program regulations at 49 CFR Part 26.

(2) MoDOT DBE Program Submissions to USDOT. As required by 49 CFR § 26.21, MoDOT must have a DBE Program which USDOT has approved, and MoDOT and the Commission must comply with it. Whenever MoDOT and the Commission submit proposed significant changes in the MoDOT DBE Program to USDOT for approval, the Commission will publish the contemplated significant changes in the Missouri Register as proposed rulemaking, or proposed amendments. If and when USDOT approves the proposed changes in MoDOT's DBE program, the Commission will immediately adopt an order or emergency order of rulemaking accordingly, so that the published rules in this Chapter of the Code of State Regulations are consistent with the MoDOT DBE Program as it is then approved by USDOT.

(3) The following individuals, entities and firms are governed and bound by the DBE Program regulations in this Chapter, and the related and pertinent USDOT DBE Program regulations at 49 CFR Part 26:

(A) Any individual or firm with an ownership interest in a firm which is DBE certified, or which desires to be DBE certified, as well as that firm and its officers, management, employees, agents and representatives. They are bound when they or the firm apply for DBE certification, while they are certified, and when they participate in any USDOT-assisted program or contract work which is subject to 49 CFR Part 26; and for at least three years thereafter.

(B) Any individual, entity or firm which is a recipient through the Commission and MoDOT of USDOT funding subject to 49 CFR Part 26, including their owners, officers or officials, employees, agents and representatives. They are bound when the individual,

entity or firm applies for status as a recipient of USDOT funding subject to 49 CFR Part 26; while that funding exists and is available for expenditure; and for at least three years thereafter.

(C) Any individual, entity or firm which is a contractor, subcontractor or supplier on a USDOT-assisted contract issued by MoDOT or any other recipient funded through MoDOT, if that USDOT funding is subject to 49 CFR Part 26; including their owners, officers or officials, management, employees, agents and representatives. They are bound when as a contractor, subcontractor or supplier, they submit a bid for the USDOT-assisted contract, or when they submit a bid or quote which is considered for or used in a bid for that USDOT-assisted contract; they remain bound while they perform as a contractor, subcontractor or supplier on such USDOT-assisted contract work; and for at least three years after that work is completed and accepted, and final payment thereon has been made.

(D) Each member of the Commission, the MoDOT Director and Chief Engineer, the MoDOT External Civil Rights Administrator, and all other MoDOT or Commission officers, officials, employees, agents and representatives. They are bound while they hold that position, and indefinitely thereafter for those DBE Program duties and responsibilities of a continuing nature after they have left those positions or employment with the Commission or MoDOT.

(E) The USDOT and its operating administrations (FHWA, FAA and FTA), plus its agency administrators, officers, officials, employees, agents and representatives are bound in accordance with 49 CFR § 26.21(b)(1), but only to the extent that the USDOT or one of its operating administrations has approved or will approve the MoDOT DBE Program submissions and updates which correspond to the provisions of these regulations.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.041 Effective Date of the DBE Program Under 49 CFR Part 26.

**PURPOSE:** *To describe, under federal and state law, when the different components of the USDOT and MoDOT DBE Program became effective in Missouri.*

(1) Effective Date of 49 CFR Part 26. USDOT's new DBE regulations at 49 CFR Part 26 became effective and replaced USDOT's former DBE regulations (previously located at 49 CFR Part 23) on March 4, 1999. See 49 CFR § 26.9(a), and see USDOT's final rulemaking with comments at 64 Federal Register 5096-5148, at page 5096. USDOT has determined and advised all recipients such as MoDOT that since Part 26 is now in effect, recipients are responsible for implementing it, and they may no longer implement the former Part 23. Therefore, under federal law, 49 CFR Part 26 became effective and began governing the DBE Program on March 4, 1999; and MoDOT has been obligated to observe and enforce its provisions from and after that date as a matter of federal law.

(2) USDOT Binding Written Interpretations and Guidance. Since the publication of 49 CFR Part 26, USDOT has been periodically issuing valid and binding written interpretations and guidance concerning 49 CFR Part 26. As MoDOT's External Civil Rights Unit has received or continues to receive these, MoDOT has been observing and enforcing their DBE Program guidance, and MoDOT will continue to do so, as a matter of federal law. These valid and binding written guidance are available from USDOT and its Office of Small and Disadvantaged Business Utilization on the internet at their website for the DBE Program: <http://osdbuweb.dot.gov/programs/dbe/dbe.html>; or on the

main USDOT website ([www.dot.gov](http://www.dot.gov)) in the Office of Small and Disadvantaged Business portion of the site. Also, you may write or phone the Office of Civil Rights for FHWA, FTA or FAA; or contact the FHWA, FTA, or FAA field offices serving Missouri.

(3) Effective Date of the Commission's Revised DBE Regulations. The Commission and MoDOT understand that these revised state DBE Program regulations will take effect on a date later than March 4, 1999 under state law. Therefore, these regulations will not be relied upon for actions taking place prior to their legally-effective date; but the USDOT regulations at 49 CFR Part 26 will apply to govern MoDOT's DBE Program from and after March 4, 1999, as required by federal law and Section 226.150 RSMo.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

## 7 CSR 10-8.051 Procedures and Policies for Initially Certifying and Recertifying Disadvantaged Business Enterprise Firms

**PURPOSE:** *This rule describes the procedures and policies which MoDOT will use to certify firms as DBEs under federal law.*

### (1) The Certification Application and Review Process.

(A) All applicants for DBE certification by or through MoDOT shall be furnished an application form in one or more parts, written instructions for completing the application, a copy of the rules in this Chapter, and a copy of the eligibility requirements of Title 49 CFR Part 26. Through this application process, each firm seeking DBE certification has the burden of demonstrating to MoDOT by a preponderance of the evidence, that it meets the requirements of 49 CFR Part 26, Subpart D, concerning group membership or individual social and economic disadvantage, business size, ownership and control. As a part of this application process, each applicant must:

1. Provide information showing that the individuals who own and control the applicant firm are members of one or more groups identified in 49 CFR § 26.67(a) that are rebuttably presumed to be socially and economically disadvantaged. Each applicant firm, through one or more of the individuals owning and controlling that firm, must submit one or more signed, notarized "statement of disadvantage" certification(s) on a form provided by MoDOT, certifying under oath that each owner listed in the application as presumptively disadvantaged is, in fact, socially and economically disadvantaged. If MoDOT has no reason to question these sworn certifications, then MoDOT will rebuttably presume that each such owner is actually socially and economically disadvantaged. If MoDOT has any reason to question whether one or more of the designated individuals is actually a member of a USDOT rebuttably-presumed socially and economically disadvantaged group, MoDOT shall require each such individual to demonstrate, by a preponderance of the evidence, that he is a member of, and has held himself out over a long period of time as a member of, a group whose members are classified by USDOT in 49 CFR §§ 26.5 and 26.67(a) as being rebuttably presumed to be "socially and economically disadvantaged individuals".

2. Alternatively, if an applicant firm is owned and controlled by one or more individuals who are not or do not claim to be a member of a group identified in 49 CFR § 26.67(a) as socially and economically disadvantaged, then as part of the application, each such individual must submit an alternative signed and notarized "statement of disadvantage" bearing the same certification under oath as the "statement of disadvantage" form described in sub paragraph 1. above; which alternative form shows and demonstrates with supporting documentation and details of a convincing nature that such individual is in fact both socially and economically disadvantaged under the criteria specified in 49 CFR Part 26.

3. Each individual owner of an applicant firm whose ownership and control are being relied upon for DBE certification must submit a signed, notarized statement of Personal Net Worth (PNW), referencing and accompanied by appropriate supporting documentation. If an individual's PNW statement shows that the individual's personal net worth exceeds \$750,000, then any presumption of economic disadvantage of that individual is rebutted, and that individual cannot be deemed to be "economically disadvantaged" for DBE firm certification purposes.

A. If any financial statement or other information from an accountant or CPA is used in preparing or supporting the PNW statement, the supporting documentation must include the accountant's financial statement or analysis, together with all disclosures and footnotes appearing in that document, or an explanation of why that documentation would be unduly lengthy, burdensome or intrusive.

B. If any documentation prepared within the last two years valuing any of the individual owner's corporate or other business or personal property in excess of \$25,000 (except as limited in subparagraph 3.C below) exists, that documentation should be included, or else an explanation of why that documentation would be unduly lengthy, burdensome or intrusive.

C. An individual's Personal Net Worth (PNW) statement must report an individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm); however, those factors will be excluded from the final computation of personal net worth. A contingent liability does not reduce an individual's net worth. The personal net worth of an individual claiming to be an Alaska Native will include assets and income from sources other than an Alaska Native Corporation and exclude any of the following which the individual receives from any Alaska Native Corporation: cash (including cash dividends on stock received from an ANC) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per annum; stock (including stock issued or distributed by an ANC as a dividend or distribution on stock); a partnership interest; land or an interest in land (including land or an interest in land received from an ANC as a dividend or distribution on stock); and an interest in a settlement trust.

D. To calculate an individual's PNW statement, count the present value of assets attributable to the individual. For marital property held as community property or jointly (such as tenants by the entirety), normally 50% of the value of the asset is attributable to each person. However, a legal instrument valid under state law may alter this method of asset attribution between married owners. For PNW calculations, the present value of assets, including retirement savings or investment devices (such as a pension plan, IRA, 401(k) plan) do count toward calculations of an individual's personal net worth. These assets, even though generally not readily available as sources of financing for business operations, are still part of an individual's overall wealth. However, only the present value of a

retirement savings or investment device should be counted in the PNW computation; not what the individual's return from it may be at some point in the future. Also in making a PNW calculation, it is proper to deduct or subtract any interest or tax losses the individual would incur if he or she liquidated that asset (converted it into cash) today.

4. The applicant firm must certify and show that it is a "small business", within the current U.S. Small Business Administration business size standards found in 13 CFR Part 121, for the type or types of work the firm seeks to perform in USDOT-assisted contracts.

5. The applicant firm must certify and show that it (and its affiliates) has had average annual gross receipts (as that term is defined in current U.S. Small Business Administration regulations) over the firm's previous three fiscal years of \$16.6 million or less per year.

6. The applicant firm must certify and show with supporting documentation that the firm is at least fifty-one percent (51%) owned by socially and economically disadvantaged individuals. The applicant firm's ownership by these socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of the firm's arrangements. All securities that constitute actual, effective ownership of a firm must be held directly by disadvantaged persons, as described and with the exceptions provided in 49 CFR § 26.69(d). Also, the applicant firm must certify and show that the contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. All of USDOT's criteria provided in 49 CFR § 26.69 and in other approved guidance apply to govern the determination that the firm is sufficiently owned by socially and economically disadvantaged individuals for DBE Program purposes.

7. The applicant firm must certify and show with supporting documentation that the same socially and economically disadvantaged individuals who own the firm are in control of that firm; and that the applicant firm is an independent business which is viable on its own, without being dependent on its relationship with another firm or firms. The applicant firm must certify and show that its socially and economically disadvantaged owners possess the real and unrestricted power to direct or cause the direction of the management and policies of the firm, and to make day-to-day as well as long-term decisions on matters of management, policy and operations. Furthermore, the applicant firm must certify and show that its socially and economically disadvantaged owners have an overall understanding of, and managerial and technical competence and experience directly related to, the type(s) of business in which the firm is engaged, and the firm's operations. Also, to the extent that state or local law may require the persons who own and/or control a type of firm (such as an engineering design or consulting firm) to have a particular license, registration or other credential, then the same socially and economically disadvantaged individuals who own and control an applicant firm of that type must possess the required license, registration or credential. All of USDOT's criteria provided in 49 CFR § 26.71 and in other approved guidance apply to govern the determination that the firm is actually controlled by socially and economically disadvantaged individuals for DBE Program purposes.

8. The applicant firm must certify and show that it is an operational, for-profit firm, and that it is not owned or controlled by another firm, even a DBE firm, except as authorized in 49 CFR § 26.73(e), and that the firm meets all other USDOT certification eligibility criteria of 49 CFR Part 26, Subpart D.



9. Furthermore, the applicant must provide all of the information required by MoDOT in its application form and materials (plus any subsequent requests for information or clarification) relevant to show that the applicant is eligible under 49 CFR § 26.83, as well as 49 CFR Part 26, Subpart D.

10. The application must be signed by all of the applicant firm's socially and economically disadvantaged individual owners who are in control of the firm. The application must include the sworn affidavits of those individuals before a notary public or other person authorized to administer oaths, under penalty of perjury of the laws of the United States, attesting to the accuracy, completeness and truthfulness of the information on and accompanying the application form.

(B) Each application received shall be reviewed for completeness, and the applicant firm will be notified in writing of any additional information required. The additional information requested must be received within a maximum of thirty (30) days or as specified in writing. After that period, if the additional information requested has not been received and no extension of time has been requested and granted in writing, MoDOT may deny the application for the firm's failure or refusal to provide the relevant information requested by MoDOT (or possibly requested by USDOT), in accordance with 49 CFR § 26.73(c).

(C) After all required information is received, an on-site visit to the offices of the applicant firm, and to job sites at which the firm is working in Missouri, will be scheduled as required by 49 CFR § 26.83(C)(1). Minutes of the on-site review will be made and a copy of these minutes will be given to the applicant after the close of the on-site review. MoDOT will usually not make an on-site visit of firms domiciled outside of Missouri, but will contact the state of residence of that firm (or another certifying USDOT recipient) for a copy of their on-site visit.

(D) Following the on-site review, a final review of the application and its related documentation, plus the review minutes, will be made to determine that the application is complete, and that MoDOT has no questions or issues which require further submissions or documentation.

(2) The Effect of Small and Disadvantaged Business Program Certification From or Recognized By the U.S. Small Business Administration. MoDOT does not accept a firm's Section 8(a) or Small and Disadvantaged Business (SDB) Program certification from, or as recognized by, the U.S. Small Business Administration. Each such firm having 8(a) or SDB certification must independently establish its eligibility for initial DBE Program certification by MoDOT under the procedures of section (1) above. Each such firm which was previously certified as a DBE by MoDOT under the mandates of the former (now repealed) USDOT DBE Program regulations at 49 CFR Part 23 on the basis of its 8(a) or SDB certification, must establish its right to certification independently under the standards of 49 CFR Part 26 and the provisions of this chapter, in order to be certified or re-certified as a MoDOT DBE firm after March 4, 1999.

(3) The Effect of Certification as a DBE by Another USDOT Funding Recipient. In accordance with 49 CFR § 26.83(e), MoDOT does not accept a firm's certification by another USDOT funding recipient as a basis upon which MoDOT will rely in the DBE certification process. In each instance, and regardless of the other USDOT recipients which may have previously or currently certified this firm as a DBE for the purposes of their DBE programs, MoDOT will request, accept and consider certification documentation provided by any other certifying USDOT recipient, together with the documentation required by section (1) of this rule; but MoDOT will in each instance make an independent determination of whether the applicant firm will be certified as a DBE or not.

(4) The Effect of Certification as a DBE by a Missouri Unified Certification Program. A Unified Certification Program (UCP) for the state of Missouri, as required by 49 CFR § 26.81, is being developed but does not current exist. Once a Missouri UCP exists and has been approved by the

U.S. Secretary of Transportation under 49 CFR § 26.81(a), certification as a DBE by the UCP shall be binding upon and honored by MoDOT, and that Missouri-certified DBE firm will not be obligated to separately apply for MoDOT DBE certification under this rule or chapter.

(5) The Burdens of Proof in Certification Determinations. As provided in 49 CFR § 26.61, any firm applying for DBE certification has the burden of demonstrating to MoDOT by a preponderance of the evidence, that the firm meets the requirements of 49 CFR Part 26, Subpart D, concerning group membership or individual disadvantage, business size, firm ownership and control of the firm. MoDOT will rebuttably presume that individuals who establish themselves to be members of any of the USDOT-designated groups identified in 49 CFR § 26.67(a) are socially and economically disadvantaged. However, such applicants still have the obligation to provide MoDOT with the information concerning their economic disadvantage as required by this chapter and by 49 CFR Part 26, Subpart D, especially at § 26.67. All other individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to MoDOT by a preponderance of the evidence that they are socially and economically disadvantaged.

(6) Pre-Determination Informal Proceedings to Receive Evidence for DBE Certification Purposes. MoDOT is not obligated to do so, but in the course of any DBE certification application review, if MoDOT decides that facts, circumstances, relationships or other DBE issues require clarification or explanation by this method, MoDOT may request the applicant in writing to appear before MoDOT External Civil Rights Unit personnel and a notary public, to provide verbal testimony in person, sworn under penalty of perjury, together with supporting documentation, on the outstanding questions which MoDOT requests additional information. MoDOT's written notice will specify the issues or questions which require clarification and supplementation by the applicant. MoDOT's written notice will also afford the applicant the alternative opportunity to submit written testimony by affidavit sworn under penalty of perjury, and accompanied by other documentation, on these issues or questions, in lieu of providing sworn verbal testimony before a notary public, if the applicant is confident that such a written reply will sufficiently answer MoDOT's questions and issues. The sworn verbal presentation will not be a hearing, but will be an informal question and answer session. The applicant may have legal counsel present for any reason, including to ask clarifying questions but all sworn statements made and documentation presented shall be given by the individual owners and/or representatives of the applicant firm. A verbatim transcript of any such informal verbal presentation will be prepared by MoDOT at its own cost, and one copy will be provided to the applicant firm at no charge. The information so obtained shall also be used by MoDOT in reaching its determination on DBE firm certification.

(7) Certification Determination. MoDOT shall make its determinations of whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage, by considering all the facts in the record, viewed as a whole. MoDOT will make its decision on the great majority of applications for DBE certification within ninety (90) days of receipt of all information required from the applicant firm under 49 CFR Part 26 and this chapter. However, if MoDOT is unable to decide a DBE certification question within that ninety (90) day period, MoDOT may extend that time period once, for up to an additional sixty (60) days, upon written notice to the applicant firm, explaining fully and specifically the reasons for this extension. If for any reason, MoDOT fails to issue a written decision on certification within that time period (as it may have been extended once in writing), then MoDOT is deemed to have denied the DBE certification application by USDOT, and the applicant firm may appeal that constructive denial to USDOT under the provisions and authority of 49 CFR §§ 26.83(k) and 26.89.

(8) Effect of DBE Certification.

(A) If MoDOT determines to certify an applicant firm as a DBE, that firm shall be notified in writing by MoDOT, and MoDOT shall notify the firm of the specific category or categories of work in which the firm is DBE certified. The firm and its pertinent

information, including its approved categories of DBE work shall be added to MoDOT's DBE directory immediately. The firm will remain certified for MoDOT purposes for a period of three (3) years from its date of certification. On that date, the firm's DBE certification shall lapse and be null and void, unless the firm has submitted a reasonably complete new certification application to MoDOT. Provided, however, that during the three-year certification period, each DBE firm must accurately, truthfully and completely submit the interim sworn affidavits and documentation to MoDOT required annually and/or when there is a material change in circumstances relating to that firm, as specified in 49 CFR § 26.83 and in this chapter. Also, any certified DBE firm is potentially subject to having its DBE certification removed through the procedures specified in 49 CFR § 26.87 and in this chapter.

(B) DBE certification confers no vested or permanent right or property interest which continues beyond the three-year certification period. About sixty (60) days prior to the end of its three (3) year certification period, each DBE firm will be mailed a complete packet of certification application materials to be completed and submitted for another three (3) year certification period. If the certification application materials are completed reasonably accurately and completely by the applicant DBE firm and received by MoDOT's External Civil Rights Unit staff on or before the certification expiration date, then that firm's DBE certification will not lapse on the third anniversary date after certification. While a timely new certification application is pending, the prior DBE certification shall continue until MoDOT rules on the new certification application. If a new certification application is not timely received by MoDOT on or before the third anniversary date of certification, then that firm's DBE certification shall lapse, and the firm shall no longer be DBE certified by MoDOT. Should a firm whose certification has lapsed later apply for DBE certification with MoDOT, that firm shall remain without DBE certification unless and until its new DBE application is approved by MoDOT.

(9) Effect of MoDOT DBE Certification Denial.

(A) If any applicant for DBE certification (whether currently certified by MoDOT or not) is denied certification by MoDOT's External Civil Rights Unit, MoDOT's External Civil Rights Unit shall notify the firm of that decision in writing by certified mail, return receipt requested. The notice shall set out the specific grounds for certification denial in Title 49 Part 26 and in this chapter, and shall specifically describe or refer to the evidence (or lack thereof) which supports that determination by MoDOT's External Civil Rights Unit.

(B) The written notice of denial shall inform the applicant firm of its discretionary right to seek MoDOT administrative review of this certification denial by an independent hearing officer who did not take part in the actions leading to the denial of certification, and who is not subject to direction or instruction from the External Civil Rights Unit, its administrator or its personnel, who did take part in those actions. The notice of denial shall inform the applicant firm that if it requests this MoDOT administrative review within fifteen (15) days of the date of the MoDOT certification denial letter, the firm will have the choice of an informal hearing before the hearing officer, with sworn testimony; and MoDOT will maintain a verbatim record of the hearing and the record evidence. The notice shall further inform the applicant firm of its right to elect to present additional information and arguments supporting its certification to the hearing officer in writing, without going to a hearing. The notice will provide that if the applicant firm elects MoDOT administrative review by either an informal hearing or by written submissions, the applicant firm shall be afforded an opportunity to respond to the reasons stated for denial of certification, and may provide information and arguments concerning why it should be certified. In such an administrative review, the applicant firm still bears the burdens of proof specified in section (5) of this rule and in 49 CFR § 26.61. The procedures for such an informal hearing or written presentation to an independent MoDOT hearing officer are the same as those set forth in this chapter in Rule 7 CSR 10-8.091, except that the applicant for initial or renewed certification shall bear the burdens of proof, and not

MoDOT. As a result of the MoDOT administrative review, the hearing officer may either affirm the initial MoDOT denial of certification, or may reverse that determination and rule that the firm shall be certified. The ruling of the hearing officer shall be by written findings of fact and conclusions of law, and shall restate or provide by enclosure all pertinent USDOT rules in 49 CFR Part 26. If the independent hearing officer ultimately affirms the denial of certification, the applicant firm shall be informed in writing of its right to appeal the certification denial to USDOT under the procedures set forth in 49 CFR § 26.89, and that USDOT regulation shall be cited in full or enclosed.

(C) The written notice of denial shall also clearly state that further administrative review by an independent MoDOT hearing officer is optional, and not mandatory, before the firm may appeal the MoDOT certification denial to USDOT. The applicant firm, if it so wishes, may bypass any further MoDOT administrative review and may appeal the certification denial within ninety (90) days of the date of that certification denial directly to USDOT under the procedures set forth in 49 CFR § 26.89, specifying the procedures for certification appeals to the U.S. Department of Transportation. A copy of 49 CFR § 26.89, and any other pertinent USDOT DBE Program regulations cited in the determination, shall be enclosed with the written notice of denial.

(D) A firm which has been denied DBE certification may not reapply for DBE certification to MoDOT for a period of at least twelve (12) months from the date of the written notice of denial. The written notice of denial shall also inform the applicant firm of that MoDOT restriction.

(E) A firm which has previously been certified, but has been denied renewed certification as a DBE firm upon reapplication to MoDOT for DBE certification, shall be removed immediately from MoDOT's DBE Directory listings. The firm, its owners, agents and employees, shall no longer represent this firm's status as an eligible MoDOT DBE firm to any other firm or person. As with any other MoDOT denial of certification, such a firm may not reapply for DBE certification to MoDOT for a period of at least twelve (12) months from the date of the written notice of denial. The written notice of denial shall also inform the applicant firm of that MoDOT restriction.

(10) The Finality of MoDOT's Determination to Deny Initial or Renewal Certification. Whether MoDOT's determination to deny DBE certification initially or on a renewal application is made by MoDOT's External Civil Rights Unit and not appealed to a MoDOT hearing officer, or the determination is made by an independent MoDOT hearing officer under this rule, that determination is final as to MoDOT, but that determination remains appealable to USDOT under the provisions of 49 CFR §§ 26.87 and 26.89, and until USDOT has resolved such an appeal, the determination is not final under 49 CFR Part 26. Therefore, for purposes of Missouri law, the MoDOT determination to deny initial or renewal certification is not a final state administrative decision, and it is not subject to judicial review in Missouri's courts under the provisions of Chapter 536 RSMo, or 49 CFR Part 26.

**AUTHORITY:** Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

**PUBLIC ENTITY COST:** This Proposed Rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

**PRIVATE ENTITY COST:** This Proposed Rule will not cost private entities, including small businesses, more than \$500 in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this Proposed Rule with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be

received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### 7 CSR 10-8.061 Missouri Unified Certification Program

**PURPOSE:** *To describe Missouri's Unified Certification Program (UCP) for USDOT DBE certification when that program has been established by MoDOT with other USDOT recipients in Missouri; and until then, to state that no such UCP program currently exists in Missouri.*

(1) Under the mandates of 49 CFR § 26.81, within several years MoDOT and all other USDOT funding recipients in Missouri must participate in a Unified Certification Program (UCP). When the UCP is established and operational, a firm will be required to apply for certification with only entity, and if that firm is certified by that one entity, the firm's DBE certification will be honored by all other USDOT funding recipients in Missouri. However, such a UCP program does not currently exist in and for Missouri.

(2) When a Missouri UCP program is established, this regulation will be amended to describe how the UCP DBE certification process applies to and governs MoDOT's DBE certification process. This regulation will also be amended to adopt any requirements necessary to conform and comply to the new state UCP program for DBE certification.

**AUTHORITY:** Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.071 DBE Program Reporting and Disclosure Requirements for Currently Certified DBE Firms

**PURPOSE:** *This rule describes the various affidavits and other documents each currently certified DBE firm must file with MoDOT to remain certified; and the legal implications for a DBE firm which fails to timely file the required affidavit or other documents.*

(1) Sworn Affidavit of A Material Change in the DBE's Status or Circumstances.

(A) As required by 49 CFR § 26.83(i), each certified DBE firm must inform MoDOT in writing of any change in circumstances which affects the firm's legal ability to meet the size, disadvantaged status, ownership or control requirements of 49 CFR Part 26; or of any material change in the information provided in the firm's last DBE certification process with MoDOT. This includes, but is not limited to, changes in a firm's management or management responsibilities; changes in operational or daily control of the firm's business; changes in firm ownership; material changes in the firm's annual gross receipts; or material changes in the personal net worth of any one owner who was represented or found to be socially and economically disadvantaged. This written notice to MoDOT should be sent to MoDOT's DBE Program Liaison Officer, the External Civil Rights Administrator.

(B) The written notice must take the form of an affidavit by the firm's socially and economically disadvantaged individual owners, sworn to before a notary public or other person who is authorized by state law to administer oaths; or else it may be an unsworn

declaration which clearly contains a written affirmation that it is executed by each individual signing it under penalty of perjury as provided in the laws of the United States.

(C) The DBE firm and its controlling owners must provide this written notification to MoDOT within thirty (30) days of the occurrence of the change in question, regardless of when the change in status or circumstances occurred. If the DBE firm or its owners fails to make a timely written notification to MoDOT of such a change in status or circumstances, the firm will be deemed to have failed to cooperate, and shall subject the firm to removal of eligibility as a DBE, and each of them to any one or more of the other sanctions provided in 49 CFR § 26.109(c), or elsewhere in state or federal law. An intentional failure to timely notify MoDOT of the change in status or circumstances may subject the DBE firm or its owners to federal or state criminal prosecution for fraud or other crimes, and may also result in contractual or other liability as well.

## (2) Annual Sworn Affidavit

(A) Each year, on or before the annual anniversary date of its last certification, each DBE firm must submit a sworn and notarized affidavit from each of the firm's controlling socially and economically disadvantaged owners, executed under penalty of perjury of the laws of the United States. If a notary is not available, then the affidavit must be executed before a person who is authorized by state law to administer oaths. This affidavit must truthfully, accurately and completely affirm that there have been no changes in the firm's status or circumstances affecting its ability to meet the DBE firm size, ownership or control requirements of 49 CFR Part 26, that there have been no changes in that individual owner's status, personal net worth or other circumstances which may affect that individual's status as socially and economically disadvantaged under 49 CFR Part 26, that there have been no other material changes in any of the other information originally provided with the firm's application for DBE certification, and that the firm is still eligible for MoDOT DBE certification status; except as the firm may have previously notified or be notifying MoDOT under 49 CFR § 26.83(i) and section (1) of this rule. These affidavits must be accompanied by the most recent personal state and federal income tax returns for each socially and economically disadvantaged individual who is on record with MoDOT as owning and controlling the firm; plus the DBE firm's most recent state and federal income tax returns; and the DBE firm's most recent financial statement. If any audited financial statement has been prepared for an individual disadvantaged owner (individually or jointly with his or her spouse) or for the DBE firm since the last certification date or its annual anniversary, then a complete photocopy of that document must also be provided, including but not limited to its asset and liability descriptions, balance sheets, and all its notes, footnotes, and accompanying statements and qualifications.

(B) MoDOT will notify each DBE firm by regular U.S. mail in writing at least thirty (30) days before the annual anniversary date of certification of this annual sworn affidavit and its accompanying document submission requirement. However, regardless of whether the firm receives that notification, it is the DBE firm's responsibility to timely submit the required affidavit and other documentation.

(C) If the DBE firm and its owners fail to make a timely submission to MoDOT of the required annual affidavits and documentation, or if the information contained therein is not accurate, complete and truthful, the firm will be deemed to have failed to cooperate, which shall subject the firm to removal of eligibility as a DBE, and to any one or more of the other sanctions provided in 49 CFR § 26.109(c), or elsewhere in state or federal law. An intentional failure to truthfully, accurately and completely notify MoDOT in the annual affidavit and its submissions of any change in status or circumstances may subject the DBE firm or its owners to federal or state criminal prosecution for fraud or other crimes, and may also result in contractual or other liability as well.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

## 7 CSR 10-8.081 Ineligibility Complaints

**PURPOSE:** *This rule discusses the procedures for, and confidentiality governing, the filing of a DBE firm ineligibility complaint, in accordance with 49 CFR §§ 26.87(a) and 26.109(b).*

(1) Filing an Ineligibility Complaint. Any person, firm, recipient, or other legal entity may file with MoDOT a written complaint alleging that a currently-certified firm is ineligible for DBE Program certification, and specifying the reasons why that firm is alleged to be ineligible. However, MoDOT will not accept a general allegation that a firm is ineligible without some supporting details or allegations; and MoDOT will not accept an anonymous complaint for purposes of 49 CFR § 26.87(a) compliance (although MoDOT may act upon the allegations in an anonymous complaint on its own initiative). As a matter of program and contract compliance, MoDOT encourages all DBE firms, prime contractors, other subcontractors, and their owners, officials and employees, to file a detailed ineligibility complaint, with as much supporting information as is available, whenever they have a legitimate reason to believe that a currently-certified DBE firm is not properly eligible for DBE certification under this chapter or under 49 CFR Part 26. All DBE firm ineligibility complaints should be addressed to and filed with MoDOT's DBE Liaison Officer, the External Civil Rights Administrator. An ineligibility complaint may be sworn under penalty of perjury of the laws of the United States as an affidavit before a notary public or other officer authorized to administer oaths, but that is not a legal prerequisite for filing an ineligibility complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified.

(2) MoDOT Processing of Ineligibility Complaints. Upon receipt of a signed ineligibility complaint including one or more detailed allegations, MoDOT will acknowledge the receipt of the complaint in writing; but a copy of the acknowledgement will not be sent to the DBE firm. MoDOT will review its records concerning the DBE firm in question, along with any material provided by the complainant or available from other sources within or without MoDOT. MoDOT will conduct any investigation it deems necessary under the circumstances, although MoDOT is not legally obligated to conduct any investigation beyond a document request and review. At an appropriate time in the complaint investigative phase, MoDOT will notify the DBE firm in writing that a complaint alleging the firm's ineligibility had been filed, and request additional information from the firm relating to the allegations. In that letter, MoDOT will provide the DBE firm with a general statement or summary of the allegation(s) against the DBE firm's continued certification.

(3) The MoDOT Determination and Future Actions. After MoDOT has reviewed the complaint and conducted any investigation it deems necessary, MoDOT shall make a determination whether there is reasonable cause to believe that the DBE firm is ineligible to be certified. If MoDOT finds reasonable cause to believe that the DBE firm is ineligible, MoDOT will provide written notice to the DBE firm that MoDOT proposes to find the firm ineligible for certification, which notice sets forth the reasons for that proposed determination. MoDOT will not provide the complainant with that notice of reasonable cause or the preliminary findings set forth therein, but may advise the complainant that proceedings concerning the firm's DBE eligibility are continuing at MoDOT. In the event that MoDOT determines that reasonable cause does not exist, MoDOT will separately and confidentially notify the complainant and the DBE firm in writing of that determination and MoDOT's reasons for making that determination. All statements of reasons for findings on the issue of reasonable cause shall specifically reference the evidence in the record on which each reason is based.

(4) MoDOT Hearing or Other Due Process Review. When MoDOT notifies a firm that there is reasonable cause to remove its DBE eligibility on the basis of an ineligibility complaint and MoDOT's review and investigation of that complaint, MoDOT will follow the procedures required by 49 CFR § 26.87(d), and offer the DBE firm an opportunity for an informal hearing with a complete and verbatim record, or if the firm elects, an opportunity to present information and arguments in writing for a written record review, without going to a hearing. Such a reasonable cause notice shall be sent to the DBE firm by certified U.S. mail, return receipt requested. An informal hearing or written record review will be conducted and decided by an independent hearing officer for MoDOT. In the event the firm requests either an informal hearing or a written record review of a reasonable cause determination, MoDOT shall bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of 49 CFR Part 26 and this chapter. If the firm does not request either an informal hearing or the opportunity for a written record review within fifteen (15) days after the date the firm receives the reasonable cause notice, as shown on the return receipt card, then the file MoDOT's External Civil Rights Unit has developed on this eligibility complaint (along with any sworn affidavits of the staff or others) shall be turned over to the independent hearing officer to determine if, by a preponderance of the evidence present in the file before the hearing officer, MoDOT has proven that the firm does not meet the certification standards of 49 CFR Part 26 and this chapter.

(5) The Confidentiality of Information on a Complainant. Pursuant to 49 §§ 26.87(a) and 26.109(b), the identity of complainants shall be kept confidential by MoDOT and all its staff, including its hearing officer, at the complainant's election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to the firm, its owners or other parties, then MoDOT shall advise the complainant to determine if the complainant will waive the privilege of confidentiality. Complainants shall be advised that in some circumstances, their failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or informal hearing, if the allegations cannot be established without actually or effectively disclosing the identity of the complainant. Complainants shall further be notified that if the allegations of the complaint cannot be established by other available means, the complainant shall be expected to provide sworn testimony at an informal hearing or else a sworn affidavit for a written record review, to help MoDOT prove the firm is ineligible for certification by a preponderance of the evidence. If the complainant refuses to waive the confidentiality privilege so as to disclose his or her identity, or refuses to provide oral or written evidence where necessary to substantiate the complaint, then MoDOT will take whatever administrative action is appropriate on the complaint, including but not limited to dismissing the complaint for lack of supporting evidence.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

## 7 CSR 10-8.091 MoDOT Procedures and Hearings to Remove a Firm's DBE Eligibility

**PURPOSE:** *This rule complies with the requirements of 49 CFR §§ 26.67, 26.87 and 26.89, by specifying the grounds for which MoDOT may institute proceedings to remove a firm's DBE certification and eligibility, and the hearing or other due process procedures involved.*

(1) Scope of this Rule.

(A) This rule specifies the circumstances in which MoDOT will consider removing DBE eligibility from a firm which is currently certified as a DBE, and the procedures which



will be followed to reach a determination of continued DBE eligibility. This rule also specifies the procedures which MoDOT will use to afford an individual owner of a DBE-certified firm and the firm due process if that owner's status is challenged or suspected as not qualifying that individual owner as socially and economically disadvantaged under 49 CFR Part 26. This rule will apply to:

1. Complaints of a DBE firm's ineligibility under 49 CFR § 26.87(a) and rule 7 CSR 10-8.081, when MoDOT notifies the DBE firm that there is reasonable cause to remove its DBE eligibility on the basis of an ineligibility complaint and MoDOT's review and investigation of that complaint.
2. MoDOT-initiated proceedings, where based upon notification by the DBE firm of a change in its status or circumstances, or other information which comes to MoDOT's attention, and after any investigation MoDOT External Civil Rights Unit deems appropriate, the MoDOT staff determine that there is reasonable cause to believe that a currently-certified DBE firm is ineligible. At that time, MoDOT shall provide written notification to the DBE firm by certified U.S. mail, return receipt requested, that MoDOT proposes to find the firm ineligible as a DBE, setting forth the specific reasons for that proposed determination. This statement of reasons for the finding of reasonable cause to remove the firm's DBE eligibility shall specifically reference the evidence in the record which MoDOT has developed to date, on which each reason is based. These proceedings also include, but are not limited to, a potential removal of DBE certification where MoDOT has reason to believe that an individual owner classified as socially and economically disadvantaged is actually not so disadvantaged; and the loss of that disadvantaged status would likely result in the firm's loss of DBE eligibility.
3. USDOT-initiated proceedings, where a USDOT operating administration has determined that information in MoDOT's records or other information available to USDOT provides reasonable cause to believe that a firm which MoDOT certified as a DBE does not meet the eligibility criteria of 49 CFR Part 26. In such an event, the USDOT operating administration may direct MoDOT to initiate a proceeding to remove the firm's certification. If USDOT does direct MoDOT to initiate a proceeding to remove a firm's certification, that USDOT operating administration will provide the DBE firm and MoDOT with the reasons for that directive, including any relevant documentation or other information available to USDOT. When that USDOT action occurs, MoDOT will immediately commence and prosecute a proceeding to remove that firm's DBE eligibility, as provided by 49 CFR § 26.87(b), and by paragraph 2. of this subsection, in accordance with 49 CFR § 26.87(c).

(B) This rule does not apply to:

1. Firms which are seeking initial certification as a DBE, or which previously have been certified as a DBE but are undergoing review to determine if the firm will be certified by MoDOT for an additional three-year period. Their informal hearing or other administrative review process by an independent hearing officer within MoDOT after MoDOT External Civil Rights Unit have denied the firm's certification is addressed in rule 7 CSR 10-8.051, section (9).
2. An individual whose statement of personal net worth shows that the individual owner's personal net worth exceeds \$750,000, and so that individual's presumption of economic disadvantage is rebutted. In that event, MoDOT will simply notify that individual owner and the DBE firm in

question in writing by U.S. mail that this owner is not economically disadvantaged and can no longer be used to support the firm's eligibility as a DBE. However, if that individual's loss of economic disadvantage status may render the firm ineligible as a DBE (which will usually be the case when an individual owner ceases to be economically disadvantaged), then MoDOT will immediately commence and prosecute a proceeding to remove that firm's DBE eligibility, as provided by 49 CFR § 26.87(b) and by paragraph (A)2. of this rule.

3. An individual owner of a DBE firm where MoDOT has reasonable cause to believe that such individual is not socially and/or economically disadvantaged, but that individual is only a minority owner and has no real control over the DBE firm, so his or her status is not necessary to continue the firm's DBE eligibility. Under those circumstances, MoDOT may take no immediate action, but may wait to resolve that issue when the firm next applies for certification. However, if that individual's loss of social and/or economic disadvantage status could possibly render that firm ineligible as a DBE (which will usually be the case when an individual owner ceases to be socially and economically disadvantaged), then MoDOT will immediately commence and prosecute a proceeding to determine whether that individual's presumption of social and/or economic disadvantage should be rebutted, and if so, whether MoDOT should remove that firm's DBE eligibility, as provided by 49 CFR § 26.87(b) and by paragraph (A)2. of this rule.

(2) MoDOT Hearing or Other Due Process Review. When MoDOT notifies a firm that there is reasonable cause to remove its DBE eligibility for any basis specified in section (1) of this rule, MoDOT will follow the procedures required by 49 CFR § 26.87(d), and offer the DBE firm an opportunity for an informal hearing with a complete and verbatim record, or if the firm elects, an opportunity to present information and arguments in writing for a written record review, without going to a hearing. Such a reasonable cause notice shall be sent to the DBE firm by certified U.S. mail, return receipt requested. Such an informal hearing or written record review will be conducted and decided by an independent hearing officer for MoDOT. In the event the firm requests either an informal hearing or a written record review of the reasonable cause determination, MoDOT shall bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of 49 CFR Part 26 and this chapter. If the firm does not request either an informal hearing or the opportunity for a written record review within thirty (30) days after the date the firm receives the reasonable cause notice, as shown on the return receipt card, then the file MoDOT's External Civil Rights Unit have developed on this eligibility complaint (along with any sworn affidavits of the staff or others) shall be turned over to the independent hearing officer to determine if, by a preponderance of the evidence present in the file before the hearing officer, MoDOT has proven that the firm does not meet the certification standards of 49 CFR Part 26 and this chapter.

(3) The Hearing Officer. The hearing officer which conducts the informal hearing or written record review shall also determine the decision in that proceeding for MoDOT. The hearing officer shall be knowledgeable about the DBE certification requirements of 49 CFR Part 26 and this chapter. At MoDOT's sole election, the hearing officer may be a licensed attorney, a registered professional engineer, or any other qualified individual. If the hearing officer is not a licensed attorney, the hearing officer may have present or receive assistance from a licensed attorney knowledgeable about the DBE Program, to aid and advise the hearing officer on evidentiary issue rulings and other legal or procedural questions. In any event, the hearing officer will not be from MoDOT's External Civil Rights Unit, and will not take any direction from that unit, its personnel, or other MoDOT personnel who may have taken part in actions leading to the reasonable cause determination, or in seeking to implement the proposal to remove the firm's DBE eligibility. The hearing officer shall

decide all evidentiary or other procedural issues which arise in the course of the informal hearing or written record review proceedings, as well as solely issuing the final written determination of the firm's DBE eligibility for MoDOT. The hearing officer shall also be the sole judge of the credibility of witnesses in any MoDOT informal hearing or written record review.

(4)The Informal Hearing Process.

(A) If a DBE firm requests an informal hearing to resolve the question of its DBE eligibility, that informal hearing shall be held at a location of MoDOT's choosing in Missouri before a notary public who will administer oaths, and who will prepare a complete and verbatim written record of the hearing at MoDOT's expense. The informal hearing is not a "contested case" under the provisions of Chapter 536, RSMo. The DBE firm and/or its owners need not be represented by an attorney licensed to practice in Missouri, but they have the right to such legal representation during the informal hearing process if they so choose. The DBE firm may be represented by a controlling owner, to the extent that practice does not constitute the unauthorized practice of law. MoDOT shall be represented by a member of the External Civil Rights Unit, and by a licensed attorney.

(B) At least ten (10) days prior to an informal hearing, the MoDOT External Civil Rights Unit shall provide the DBE firm and the hearing officer with a copy of the entire record pertinent to the issues, upon which the reasonable cause findings were made. That record shall be received into evidence over any objection. The DBE firm and MoDOT shall have the right to supplement the record prior to or at the time of the informal hearing, by affidavit or other written documentation, as well as by sworn testimony given during the hearing. Within reason, all notarized affidavits sworn or affirmed under penalty of perjury, and all other competent and relevant evidence presented by the parties, shall be received by the hearing officer and considered for what it is worth. However, as to any affidavits or other documentary evidence which are disputed or objected to upon the record, the objecting party may present opposing sworn verbal testimony or affidavits at a later date (if the hearing officer deems that necessary), to be scheduled by the hearing officer so as to give the objecting party a fair and reasonable opportunity to respond. If a party wishes to do so, that party may, in addition to cross examination of an adverse witness, present one or more sworn witnesses to rebut oral or written testimony given previously at the informal hearing.

(C) All witnesses shall be sworn by the notary public, or declare or affirm their testimony under penalty of perjury, in accordance with Section 492.060 RSMo and 49 CFR Part 26, before they are permitted to testify. Sworn testimony may be given in statement form or in question and answer form. Each witness shall be subject to cross-examination. Depositions for testimonial purposes may be used when agreed to by both parties and when the witness agrees to appear voluntarily. Or, a deposition may be used if a Missouri court so orders and/or issues a subpoena or subpoena duces tecum to compel the witness's attendance and testimony under such terms and conditions as the court deems appropriate, in order to provide a fair proceeding and due process to each party. Any opening or closing statements requested by the hearing officer from counsel or other party representatives shall not be considered as evidence, unless they are given as sworn testimony, or affirmed or declared under penalty of perjury, and they are subject to cross examination by the opposing party. Any party, during the presentation of its case in chief or in its rebuttal evidence, may call as a witness any person or party present; but the hearing officer has no authority to issue subpoenas or subpoenas duces tecum to compel testimony or the production of evidence.

(D) In proceedings where there is a complaining witness who has agreed to be identified and to disclose all of its prior submissions and complaints to the DBE firm, or in other proceedings under this rule upon written application to all parties; where the hearing officer deems it appropriate and in the best interests of developing a fair and complete record; a complaining witness may be authorized to participate as an additional party at

the hearing, to present relevant and competent evidence and testimony, and to cross-examine and rebut witnesses and testimony, concerning whether the DBE firm should remain certified and eligible. Provided, however, that MoDOT shall also retain the full right and opportunity to present its relevant, competent and substantial evidence and testimony on the eligibility issues, and to cross-examine and rebut opposing witnesses.

(E) As time, the interests of fairness, or scheduling needs may require, the hearing officer may continue or reschedule an informal hearing, to begin or to resume on a specific date, at the same or at another location. However, the hearing officer is not compelled to consider or rule favorably upon a written or oral request for a continuance or for resumption of the hearing on a later date, except when that is required to provide the minimum due process required for a fair hearing, such as when a later resumption may be warranted to provide an opportunity to complete a party's case in chief, or to rebut unexpected opposing testimony and evidence. During the rebuttal phase of the informal hearing, no new oral, written, documentary or other evidence should be received unless it is relevant to rebut evidence previously presented by an opposing party.

(F) A reasonable time after the conclusion of a hearing, the hearing officer shall provide each party with a complete copy of the transcript and the rest of the record evidence upon request, if that party is willing to pay MoDOT for the actual cost of preparing a complete copy of the record. If any party so requests, the hearing officer shall afford each party the opportunity to file a brief with proposed findings of fact and a recommended decision, which should be complete with citations to the record and to other supporting record evidence, on a date specified.

(G) As specified in 49 CFR § 26.87(d)(1), MoDOT bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the DBE certification standards of 49 CFR Part 26, before the hearing officer may issue a decision that the firm is no longer eligible for DBE certification.

(5) The Written Record Review.

(A) If a DBE firm requests a written record review to resolve the question of its DBE eligibility, the MoDOT External Civil Rights Unit shall provide the DBE firm by certified U.S. mail, return receipt requested, and the independent hearing officer with a copy of the entire record pertinent to the issues upon which the reasonable cause findings were made. That record shall contain one or more sworn affidavits or certifications, or possibly verbatim records of sworn verbal statements made under oath, affirmation or other declaration under penalty of perjury. That record shall be received into evidence by the hearing officer over any objection of the firm or its owners.

(B) The DBE firm shall have up to thirty (30) days after the date the External Civil Rights Unit mails the entire record to the firm in order to supplement that record with its own evidence, including affidavits and other sworn documents. Provided, that if the DBE firm intends to submit any verbatim records of sworn verbal statements, the firm or its legal counsel must make arrangements with the MoDOT External Civil Rights Unit so that legal counsel for MoDOT (an attorney who is not the hearing officer) may be present when the sworn statement is made, so MoDOT can also examine the witness; and the DBE firm may not use or abuse this process in lieu of having an informal hearing. Upon good cause shown, the independent MoDOT hearing officer may extend the time available to the DBE firm to submit its supplement to the record opposing the removal of eligibility.

(C) Within fifteen (15) days after the DBE firm has submitted its supplement to the written record to both the independent hearing officer and the attorney for the MoDOT External Civil Rights Unit, the MoDOT External Civil Rights Unit's attorney may request the hearing officer in writing to be granted leave to present additional sworn written evidence, solely to rebut any evidence submitted by the DBE firm or its legal counsel. The written motion and showing of good cause must be sent to the DBE firm (or its legal counsel) and must describe specifically what additional sworn evidence the MoDOT

External Civil Rights Unit intend to develop, the identity of each additional witness, and what each witness is expected to testify to in rebuttal. Upon good cause shown, and after consideration of any written suggestions of the DBE firm or its legal counsel, the hearing officer may grant MoDOT leave to supplement the written record, under such terms and conditions as the hearing officer deems appropriate to assure a fair and accurate written record.

(D) If any party so requests the hearing officer in writing before the written record is complete, the hearing officer shall afford each party the opportunity to file a brief with proposed findings of fact and a recommended decision, which should be complete with citations to the record evidence, on a date specified.

(E) As specified in 49 CFR § 26.87(d)(3), MoDOT External Civil Rights Unit and their counsel bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the DBE certification standards of 49 CFR Part 26, before the hearing officer may issue a decision that the firm is no longer eligible for DBE certification.

(6) The Hearing Officer's Determination. At a reasonable time after the conclusion of the informal hearing or the written record development phase, and any subsequent briefing, the independent hearing officer shall issue written findings and a determination of DBE eligibility of the firm in accordance with 49 CFR § 26.87(f) and (g), supported by citations to the record. The written findings and determination shall be mailed to the firm by certified U.S. mail, return receipt requested, and also served on MoDOT External Civil Rights Unit counsel; plus a copy shall be mailed to any third-party complainant or USDOT operating administration which caused the proceeding to be initiated. If the hearing officer finds that the MoDOT External Civil Rights Unit failed to prove by a preponderance of the evidence that the firm does not meet the certification standards for DBEs in 49 CFR Part 26, then the hearing officer shall determine that the firm retains its status as a DBE firm. If the hearing officer finds that the preponderance of the evidence shows that the firm does not meet any one certification standard for DBE certification in 49 CFR Part 26, then the hearing officer shall notify the firm in the written determination that effective that date, the firm has been declared ineligible as a DBE, and has been removed from the MoDOT roster of eligible, certified DBE firms, plus the consequences of that action. If the hearing officer's decision is to remove the firm's DBE certification eligibility, the written findings and determination shall also include the required notice of the availability of an appeal of the removal of eligibility to USDOT under 49 CFR §§ 26.87(g) and (j), and 26.89. Also, if the proceedings were initiated based upon a third-party complaint of ineligibility and the hearing officer has not determined that the firm is ineligible for DBE certification, the written findings and determination shall include the required notice of the availability of an appeal to USDOT by the complainant, under 49 CFR § 26.89(a)(2).

(7) MoDOT Action Resulting From a Removal of DBE Eligibility. If the determination of the independent hearing officer is to remove the firm's DBE certification and eligibility, then MoDOT External Civil Rights Unit staff shall separately but promptly take the actions required by 49 CFR § 26.87(i). Also, MoDOT's Resident Engineers and their staff shall take any other or related actions which may be required by the USDOT-assisted contracts on which the firm was working, whose DBE eligibility has now been removed.

(8) The Finality of MoDOT's Determination. The determination of the hearing officer under this rule is final as to MoDOT, but that determination remains appealable to USDOT under the provisions of 49 CFR §§ 26.87 and 26.89, and until USDOT has resolved such an appeal, the determination is not final under 49 CFR Part 26. Therefore, for purposes of Missouri law, the MoDOT determination is not a final state administrative decision, and it is not subject to judicial review in Missouri's courts under the provisions of Chapter 536 RSMo, or 49 CFR Part 26.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112

Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.101 The Effect of a USDOT Certification Appeal

**PURPOSE:** *This rule advises of the legal effect of a USDOT DBE certification appeal upon MoDOT, and upon the other parties involved.*

(1) USDOT Appeal Determination Binding Upon MoDOT. If an appeal of a MoDOT DBE certification action is taken to USDOT under 49 CFR § 26.89, the resulting USDOT determination is binding upon MoDOT, but not necessarily other recipients; under 49 CFR § 26.91(a). MoDOT shall then take any actions required by 49 CFR § 26.91(b).

(2) USDOT Appeal Determination Not Binding Upon MoDOT. If an appeal of another USDOT recipient's DBE certification removal or denial action is taken to USDOT under 49 CFR § 26.89 and USDOT upholds that other recipient's denial of certification or removal of DBE eligibility, MoDOT is not governed by that determination, but MoDOT may commence a proceeding to remove the firm's DBE eligibility with MoDOT under 49 CFR § 26.87, as provided in 49 CFR § 26.91(c). In such a proceeding, MoDOT shall not remove the firm's eligibility until a proceeding under rule 7 CSR 10-8.091 is concluded, and the hearing officer determines in that proceeding that the firm's eligibility should be removed. Likewise, if USDOT has reversed the decision of another recipient to deny certification or remove a firm's eligibility, then under 49 CFR § 26.91(c) MoDOT shall take that USDOT determination into consideration, but MoDOT is not required to certify the same firm based upon that USDOT decision.

(3) Judicial Review of a USDOT Determination. Judicial review of a USDOT appeal determination of a denial of DBE certification, or of the removal of a firm's DBE eligibility, whether that USDOT appeal is from MoDOT or another recipient's determination, is not subject to the provisions of Chapter 536 RSMo, and it does not lie in the state courts of Missouri.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.111 Prompt Payment, Recordkeeping and Audit Requirements.

**PURPOSE:** *This rule sets forth the DBE Program requirements for the prompt payment of contractors, subcontractors and suppliers, plus related recordkeeping and audit requirements, on federally-assisted contracts awarded by MoDOT or any other Missouri recipient receiving USDOT funding through MoDOT.*

(1) Prompt Payment Requirements.

(A) MoDOT pays all contractors the sums due them, and when they are due, in compliance with state and federal law, including but not limited to Section 34.057 RSMo. In turn, MoDOT and USDOT in 49 CFR § 26.29(a), both require that all contractors pay all subcontractors and suppliers for their satisfactory performance of services or sale of materials and supplies, in compliance with the Missouri Prompt Payment statute, Section 34.057, Revised Statutes of Missouri. MoDOT and USDOT also require the return of all

retainage withheld from any subcontractor promptly within the period allowed by Section 34.057 RSMo, after that subcontractor's work is satisfactorily completed. For the purposes of compliance with the prompt payment requirements of 49 CFR Part 26:

1. A subcontractor has satisfactorily completed its work if MoDOT has paid the contractor for all the work which the subcontractor was to (and did) perform, and MoDOT has accepted from the contractor by partial acceptance or final acceptance, those portions of the project containing all of the subcontractor's work.
2. A subcontractor has satisfactorily completed its work if MoDOT has paid the contractor for all the work which the subcontractor was to (and did) perform, and if the subcontractor has fulfilled all of its obligations to the prime contractor and to MoDOT, for and incident to that subcontract work.
3. For purposes of compliance with 49 CFR § 26.29(a), MoDOT reserves the optional and discretionary right to determine if a subcontractor has satisfactorily completed all of its subcontract work, including all of its obligations to the prime contractor and to MoDOT for and incident to that subcontract work. MoDOT shall not make such a determination of satisfactory completion unless MoDOT has received a written complaint from or on behalf of a subcontractor, and MoDOT has contacted both the subcontractor and the prime contractor for further information. MoDOT shall not make a determination of satisfactory completion unless MoDOT is firmly convinced that the subcontractor has fulfilled all of its obligations to the prime contractor and to the Commission; and the subcontract work has been accepted by MoDOT or is now acceptable to MoDOT as satisfactory in all respects. The prime contractor must provide MoDOT and the subcontractor with legal justification in writing under Section 34.057 RSMo as to why full payment is not yet due and owing to the subcontractor. If MoDOT determines in writing that the subcontractor has completed all of its project subcontract obligations to the prime contractor and to the Commission, MoDOT shall provide copies of that written determination to the subcontractor and to the prime contractor. Within the time provided by Section 34.057 RSMo, the prime contractor should then complete payment to that subcontractor. However, the final resolution of any outstanding dispute between a prime contractor and a subcontractor over the issue of whether the subcontractor was promptly and fully paid for its project work remains with Missouri's courts, under Section 34.057 RSMo.
4. MoDOT has and will continue to have a complaint process for any subcontractor (regardless of whether it is a DBE firm) which believes it has not been paid in a timely manner for its completed project work. When a written complaint is received by the MoDOT project Resident Engineer, MoDOT project office personnel shall conduct a review of the project work status, payments made to the prime contractor, project payments the prime contractor has made to the subcontractor, other contract and subcontract compliance by both parties, in consideration of the allegations made by the complainant. A written response shall be prepared by MoDOT and mailed or delivered to the prime contractor and the subcontractor. The MoDOT project office will continue to monitor the situation until it is apparent that both parties are satisfied. If the subcontractor has not been paid in full by the prime contractor at the time the prime contractor submits final payment documentation to MoDOT, the prime contractor's legal justification for why the subcontractor has not been paid in full must be noted as an amendment to the assurance of

satisfaction of all claims, If there is no amendment and the subcontractor's claim for payment is not satisfied, the prime contractor will not receive final payment from MoDOT until the prime contractor has submitted to MoDOT satisfactory legal justification for not paying the subcontractor, as an amendment to the final payment documentation. The final resolution of any outstanding dispute between a prime contractor and a subcontractor over the issue of whether the subcontractor was promptly and fully paid for its project work remains with Missouri's courts, under Section 34.057 RSMo.

(B) As USDOT requires, this prompt return of retainage to every subcontractor is not discretionary upon the contractor's determination that the subcontractor's work is satisfactorily completed. Instead, if MoDOT has paid the contractor for all the work which the subcontractor was to (and did) perform, and MoDOT has determined under this rule and 49 CFR Part 26 that the subcontractor's work was completed satisfactorily, then the contractor must promptly make any remaining payments to and return all retainage withheld from that subcontractor, or risk liability under the terms of Section 34.057 RSMo. However, the final resolution of any outstanding dispute between a prime contractor and a subcontractor over the issue of whether the subcontractor was promptly and fully paid for its project work remains with Missouri's courts, under Section 34.057 RSMo.

(C) Except as modified by this rule, each contractor must comply with all other provisions and requirements of Section 34.057, RSMo. These requirements apply to each contractor, regardless of whether the subcontractor or supplier involved is a DBE certified firm or not. For the purposes of DBE Program administration, the contractor's compliance (or not) with the provisions of this rule, shall be determined by MoDOT External Civil Rights Unit personnel.

(2) Recordkeeping Requirements. All contractors and subcontractors must retain records of all payments made or received relating to USDOT-assisted contract work, for 3 years from the date of final payment. These records, in all forms and in any medium, must be available for inspection and copying, upon request without prior notification during normal business hours, by any authorized representative of MoDOT or USDOT. MoDOT may also obtain and maintain records of actual payments made by contractors to DBE firms, for subcontract or supply work committed to those DBE firms at the time of the USDOT-assisted contract award.

(3) Compliance Audits.

(A) USDOT, MoDOT, or authorized agents or representatives of either of these entities, may perform audits of contract payments to contractor, subcontractor and supplier firms. The audits may review contractors' payments to any or all subcontractors and suppliers, whether DBE firms or not, to ensure that the actual amount paid to DBE subcontractors and suppliers equals or exceeds the dollar amounts stated in the schedule of DBE participation; that there were no kickbacks, rebates or other concealed, false or fraudulent payments made or required; and that the contractor's payments were made promptly, in compliance with Section 34.057, RSMo. The audits also may review compliance with any other provisions of this Chapter or 49 CFR Part 26 by any contractor, subcontractor or supplier. By participating in any USDOT-assisted contract or subcontract work, or tendering supplies as a DBE firm for such work, each contractor, subcontractor or DBE supplier firm consents to such audits, and agrees to provide all documentation and information requested during the audit for inspection and copying voluntarily and without charge.

(B) USDOT, MoDOT, and other authorized agents or representatives of either of these entities, also reserve the right to audit all contractors, subcontractors, and DBE suppliers, participating in any USDOT-assisted contract awarded by the Commission or MoDOT, or awarded by any recipient of USDOT funding through MoDOT, to determine their general compliance with each and every provision of this chapter and 49 CFR Part



26. By participating in any USDOT-assisted contract or subcontract work, or tendering supplies as a DBE firm for such work, each contractor, subcontractor or DBE supplier firm consents to such audits, and agrees to provide all documentation and information requested during the audit for inspection and copying voluntarily and without charge.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

## 7 CSR 10-8.121 MoDOT DBE Program Annual Goals and Contract Goals

***PURPOSE: This rule describes how MoDOT will set its annual DBE Program goal, and its individual contract goals on USDOT-assisted contract work.***

(1) Annual Overall Program Goal.

(A) MoDOT will set its annual overall DBE Program goal (or goals) as a percentage of all federal aid highway funds for the coming year. The goal will be submitted to USDOT by August 1 of each year. MoDOT will also submit a narrative of the goal setting process including participants, the evidence utilized, and adjustments made. The narrative will state what percentage is expected to be met by race neutral and race conscious means.

(B) Public Participation. In order to ensure public participation, MoDOT will consult DBE firms, DBE organizations, Contractor Organizations, Local public Agencies, the general public, and other interested and knowledgeable parties. MoDOT will publish the proposed overall goal in general circulation, minority and female focused publications, trade association publications, and the MoDOT website. Written comments can be directed to MoDOT's DBE Liaison Officer. MoDOT will publish a notice of its goal-setting process by June 1 of each year in order to allow thirty (30) days for evidence inspection and public comment.

(C) Amount of Goal. MoDOT may use an interim goal setting mechanism while it updates its availability calculation basis to set its DBE goals based upon the most legally defensible methodology. MoDOT may consult with economics and statistical experts to assist in adopting a goal setting methodology that best meets the constitutional requirements of narrow tailoring in setting MoDOT's overall DBE goal.

Goal-Setting Process.

1. MoDOT will submit its overall goal to USDOT on August 1 of each year, commencing with August 1, 2000. Before establishing the overall goal each year, MoDOT will consult with minority, female, and general contractor groups, community organizations, and other officials or organizations. These groups include, but are not limited to, the Minority Contractors Associations within the state, Women in Construction, National Association of Women in Construction, Kansas City Hispanic Contractors Association, the Associated General Contractors, Heavy Constructors Association, Associated General Contractors of St. Louis, St. Louis City, City of Kansas City, other municipal entities, and any other organization or individuals necessary to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MoDOT's efforts to establish a level playing field for the participation of DBE firms.

2. Following this consultation, MoDOT will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the

Headquarters Office for 30 days following the date of the notice. MoDOT and the USDOT will accept comments on the goals for 45 days from the date of the notice. Normally, MoDOT will issue the notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses, including office and website addresses where the proposal may be reviewed. MoDOT will begin using the overall goal on October 1 of each year, unless other instructions have been received from USDOT.

3. MoDOT will include a summary of information and comments received during this public participation process and our responses in the overall goal submission to the USDOT.

(D) Race- and Gender-Neutral Means.

1. MoDOT will strive to meet the maximum feasible portion of the overall annual goal by the race neutral means. Race neutral participation involves affirmative action to assist all small business contractors and subcontractors. MoDOT uses the following race-neutral means to increase DBE participation:

- Where feasible MoDOT will unbundle large contracts to make them accessible to small businesses.
- Encouraging prime contractors to subcontract portions of work normally done by their own forces, when subcontractors submit a lower quote.
- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation.
- Providing assistance in overcoming limitations such as inability to obtain bonding or financing, by such means intended to provide services to help DBEs, and other small businesses, in obtaining bonding and financing.
- Providing technical assistance and other services.
- Carrying out information and communications programs on contracting procedures and specific contract opportunities by ensuring the inclusion of DBEs, and other small businesses, on mailing lists for bidders, and ensuring the dissemination bidders lists of potential subcontractors.
- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
- Ensuring distribution of the DBE director, through print and electronic means.
- Assisting DBEs and other small businesses to develop the capability to utilize emerging technology and conduct business through electronic media.

2. The amount of the goal estimated to be achieved by race-neutral means will be provided upon completion of the availability study and analysis set out above.

3. MoDOT does not operate a DBE program on projects wholly funded by state funds, therefore, an analysis of the DBE participation on these projects participation over and above the USDOT assisted projects goals, and past participation of DBE firms as prime contractors will be completed in conjunction with the availability analysis. This participation represents the race-neutral participation achieved by MoDOT and will be used to develop a statistical relationship to estimate the amount expected to be achieved by race-neutral means.

4. MoDOT will adjust the estimated breakout of race-neutral and race-conscious participation to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures.
- DBE participation through a subcontract that does not carry a DBE goal.
- 
- DBE participation on a prime contract exceeding the contract goal.

(2) Project Goals on USDOT-Assisted Contract Work.

(A) MoDOT will use contract goals to meet any portion of the overall goal MoDOT does not project being able to be met using race-neutral means. MoDOT will establish contract goals only on those USDOT assisted contracts with subcontracting possibilities.

(B) The External Civil Rights Unit is responsible for setting all DBE goals on MoDOT let projects. The unit is also responsible for review and concurrence on all off-system, aviation, transit, enhancement, consultant, and any other sub-recipient project DBE goal

(C) The project goal is set by reviewing the type of project, elements of work to be performed, time frame, geographical location, history of DBE and Non-DBE usage, and available DBE firms. The goal will be expressed as a percentage of the total amount of a USDOT assisted contract.

(D) MoDOT will always attempt to ensure that its DBE program continues to be narrowly tailored to overcome the effects of discrimination, and MoDOT will adjust its use of contract goals accordingly, as directed in 49 CFR § 26.51. MoDOT welcomes all public comments regarding any contract goal or its contract goal-setting processes. These comments should be made in writing, and sent to MoDOT's External Civil Rights Administrator.

**AUTHORITY:** Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

**PUBLIC ENTITY COST:** This Proposed Rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

**PRIVATE ENTITY COST:** This Proposed Rule will not cost private entities, including small businesses, more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this Proposed Rule with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

#### 7 CSR 10-8.131 DBE Participation Credit Toward Project or Contract Goals.

**PURPOSE:** *This rule describes how DBE firm participation credit will be awarded by MoDOT toward a USDOT-assisted contract DBE participation goal.*

(1) DBE Participation Computed. DBE participation will be credited by MoDOT only in compliance with 49 CFR § 26.55, and only for the value of the work actually performed by the DBE firm toward the DBE contract goal. The contract work performed by the DBE firm must provide a “commercially useful function” as specified in 49 CFR § 26.55(c), in order to receive DBE credit toward a contract goal.

(2) DBE Participation by Classification. DBE firm contract credit varies, based upon the MoDOT classification of that DBE firm, and based upon the nature of the services the DBE firm actually performs on the USDOT-assisted contract, as provided in 49 CFR § 26.55. DBE credit will be counted by MoDOT as directed by USDOT, its regulations in 49 CFR Part 26, and USDOT’s informal guidance; and will generally be counted in the following manner:

(A) Manufacturer. DBE credit is given for the entire value paid to a DBE manufacturer for materials furnished which become a permanent part of the project work. A manufacturer is a firm that owns and operates the facilities to produce the product required by the project and purchased by the contractor or subcontractor.

(B) Supplier. DBE credit is given for sixty (60) percent of the value paid to a DBE supplier firm for materials which it furnishes and which become a permanent part of the project work. A supplier sells good to the general public and maintains an inventor at an owned or leased warehouse or store. Bulk items such as steel, petroleum products, or rock do not have to be maintained in an on-site inventory, provided that the supplier regularly sells such products. Credit will not be given for the cost of the materials and also for the hauling of those same materials. Transportation costs for the materials are deemed part of the total cost of the products supplied.

(C) Broker. DBE credit is given for the entire amount of the broker fees or commission received by the DBE broker for materials it purchases, services it obtains, or equipment it procures and resells to a MoDOT contractor. However, no DBE credit is provided for the actual material costs, service charges, or equipment costs to the contractor. Fees or commissions are defined as the difference between what the DBE firm paid for the materials, services or equipment it brokered, and the price paid by the contractor to the DBE firm for those materials, services or equipment. A broker does not manufacture or act as a supplier of the materials, services or equipment, on a regular basis; or meet the criteria for being a manufacturer or supplier.

(D) Trucker. DBE credit is given for the entire amount of transportation or hauling charges paid to a DBE trucker, if the majority of the project trucking or hauling is performed by that DBE trucker firm, with employees of that DBE trucker, using vehicles and equipment owned or leased on a long-term basis by the DBE trucker firm. Trucking services provided in vehicles or equipment leased for just that project, or for a shorter period than the project trucking work, receive no DBE trucking credit. Further, to be a DBE trucking firm and receive DBE trucking credit, at least one truck actually owned by the DBE trucking firm must be used on that project work to haul project materials or

supplies. Full DBE trucking credit will not be given for leased trucks unless they are leased from another DBE firm, DBE owner operators, or a recognized commercial leasing operation, and the lease is of a sufficient term. Firms licensed by the Missouri Public Service Commission as leasing agents qualify as a recognized leasing operation. The leasing of trucks from the prime contractor will not be credited toward meeting a DBE goal, except as a broker, to the extent of the fees and commissions involved (but not the trucking costs). This type of relationship must be approved in advance by MoDOT External Civil Rights Unit personnel, and will be subject to strict scrutiny.

(E) DBE Contractor. Credit is given for the entire amount paid to a DBE prime contractor for labor and materials provided to perform the contract work; except that no credit will be given for labor and materials provided and installed by other contractors or subcontractors which are not DBE firms, approved by MoDOT to perform DBE subcontract work on that contract. Any DBE prime contractor must perform at least thirty (30) percent of the contract work with the DBE firm's own employees; and the DBE firm must order and pay for all its own supplies and materials, to receive this credit.

(F) DBE Subcontractor. Credit is given for the entire amount paid to a MoDOT-approved DBE subcontractor on a contract, for all the labor and materials provided and installed by the DBE firm to perform a defined and clearly measurable portion of the contract work. Any DBE firm must perform at least thirty (30) percent of the firm's subcontract work with the DBE firm's own employees, using the DBE firm's own (owned or leased) vehicles, and the DBE firm must order and pay for all of the supplies and materials which it installs and provides.

(3) Supporting Documentation Required. By bidding on a USDOT-assisted contract, or by agreeing to provide manufacturing, broker, subcontractor or supplier services for such work, each contractor, their subcontractors, and all DBE manufacturers, brokers, subcontractors and suppliers, agree to provide MoDOT or USDOT and their agents or representatives with full and complete copies of all documentation of ownership, leasing, payrolls, payments, charges, rebates, kickbacks, invoices, and all manner of related documentation, so that MoDOT and USDOT know and understand accurately and completely how much was paid and received, in gross and net amounts, for DBE contract credit computation purposes. This documentation is also subject to later audit by MoDOT, USDOT, or their agents and representatives. The failure to accurately and completely represent the gross and net payments, and to provide all documentation required to show the full and complete transactions involved, may be fraudulent, and may subject all firms and persons involved to civil suit and sanction, criminal punishment including fines or imprisonment, and other contract or administrative sanctions, by MoDOT, USDOT, or other agencies of the State of Missouri or the United States.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.141 USDOT-Assisted DBE Contract Awards and Good-Faith Efforts

**PURPOSE:** *This rule sets forth the MoDOT requirements and processes for determining if a bidder has made a good faith effort to achieve a DBE contract goal in a USDOT-assisted contract.*

(1) Contract Bidding Requirements.

(A) The award of federally-assisted contracts having DBE contract goals requires the bidder to submit a completed MoDOT DBE Participation form as a part of the bidding

documents, including a complete list of the DBE firms to be utilized (including manufacturers, suppliers, haulers or truckers, brokers, service providers, and subcontractors); together with a complete a detailed listing or explanation of the type and exact nature of the contract services the DBE firm will be providing, if the bidder is awarded the contract. If the bid of the low bidder (as computed) does not show that contractor will meet the full DBE contract goal, that contractor will be afforded the opportunity to further document its good faith efforts to reach that contract goal. However, the bidder will not be given the opportunity to submit additional proposed DBE participation, to try to satisfy the contract goal belatedly. MoDOT treats a bidder's compliance with the good faith efforts requirements of this rule and 49 CFR Part 26 as a matter of bidding responsiveness, and a bid which is otherwise low will be rejected as non-responsive if it does not meet these USDOT requirements.

(B) The DBE Participation portion of the bidding documents must include the following at the time of the bid submission:

1. The names and addresses of all DBE firms that will participate in the contract work (if awarded to that bidder).
2. A detailed description of the type and nature of the work that each DBE firm listed will perform.
3. The dollar amount of the contract value of each DBE firm's participation, in total and the portion which is applicable to the contract's DBE goal.
4. Written and signed documentation of the bidder's commitment to use each DBE firm manufacturer, subcontractor, broker or supplier it has submitted, to meet the DBE contract goal.
5. Written and signed confirmation from each DBE firm listed that the DBE firm shall participate in the contract work as provided in the bidding contractor's commitment, if the bidder is awarded the contract. And,
6. If the bidder's list of DBE firms and services does not show full compliance with the entire DBE contract goal set by MoDOT, the bidder must also include an accurate and complete listing or documentation of its good faith efforts to meet that DBE contract goal, even though the bidder did not succeed in obtaining the full DBE participation requested by the contract goal.

(C) If a low bidder has not met the DBE contract goal, the bidder's documentation of good faith efforts must fully comply with the requirements of 49 CFR § 26.53 and Appendix A to 49 CFR Part 26. MoDOT will review the low bidder's documentation, and if the bidding contractor has documented adequate good faith efforts, MoDOT will recommend award of the contract to that low bidder, provided that the bid is otherwise responsive and the bidder is otherwise responsible and qualified to bid.

(2) Failure to Document an Adequate Good-Faith Effort. In accordance with 49 CFR § 26.53(d), if MoDOT determines that the apparent low bidder has failed to meet the DBE contract goal, and has not documented adequate good faith efforts to achieve that contract goal in its bidding documents, then MoDOT will notify the bidder by telephone, fax transmission and/or in writing of that determination, and will offer the bidder the opportunity for administrative reconsideration of its good faith efforts, in adequate time prior to the Commission meeting at which this contract is scheduled to be awarded.

(3) Administrative Reconsideration.

(A) The apparent low bidder must make a written request for administrative reconsideration of the MoDOT finding of insufficient DBE participation and inadequate good faith efforts, within two (2) working days of the date the bidder was first notified by phone or in writing of MoDOT's determination of the lack of good faith efforts. The

bidder's written request for administrative reconsideration may be delivered, faxed or e-mailed to:

External Civil Rights Administrator  
Missouri Department of Transportation  
105 West Capitol Avenue, P.O. Box 270  
Jefferson City, MO 65102-0270  
Telephone: 1-888-ASK-MODOT (1-888-275-6636)  
Fax: (573) 526-5640  
E-Mail: taeges@mail.modot.state.mo.us

(B) If the bidder makes a timely request for administrative reconsideration, the bidder will have the opportunity to meet in person with the Administrative Reconsideration Committee, to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Administrative Reconsideration Committee may be constituted as MoDOT deems appropriate and fair, provided that no committee members on reconsideration shall have taken part in the original MoDOT determination that the bidder failed to meet the DBE contract goal or make adequate good faith efforts to do so. The bidder and the Administrative Reconsideration Committee make alternative arrangements which are mutually agreeable for their discussion, in lieu of a meeting in person. Any discussion shall be recorded, so that if necessary, a verbatim transcript can later be made of the discussion, and the identity of the speakers.

(C) The Administrative Reconsideration Committee shall timely decide whether the bidder did or did not meet the DBE contract goal, or if not, whether the low bidder made adequate good faith efforts to do so. If the Administrative Reconsideration Committee finds that either the low bidder met the DBE contract goal, or else the low bidder did make adequate and sufficient good faith efforts to do so, then MoDOT will recommend that this otherwise responsible low bidder should be awarded the contract on its otherwise responsive low bid. If the Administrative Reconsideration Committee does not find that the low bidder met the DBE contract goal, or that the low bidder made adequate and sufficient good faith efforts to do so, then MoDOT will recommend that the bid of this low bidder should be rejected as non-responsive, and that the Commission should award this contract to the next low bidder which has properly met the DBE contract goal or adequately documented its good faith efforts to do so, in accordance with 49 CFR § 26.53 and Appendix A to 49 CFR Part 26.

(D) The Administrative Reconsideration Committee shall communicate its decision at least verbally or by fax to the bidder in question, prior to the Commission meeting at which this contract shall be awarded. If possible, the Administrative Review Committee will also provide the bidder a written decision on its administrative reconsideration request, explaining the basis for its finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so, before the time of that Commission meeting. But in any event, the Administrative Review Committee will provide the bidder with that written decision, explaining the basis for its finding, as soon as possible after the committee has made its decision.

(E) According to 49 CFR § 26.53(d)(5), the result of such an administrative reconsideration process is not administratively appealable to USDOT.

(4) Termination of a DBE Subcontractor or Other DBE Firm.

(A) A contractor may not terminate, release or replace a DBE subcontractor, manufacturer, supplier or other DBE firm listed in its bid, and then perform the work of that terminated DBE firm with its own forces or those of another firm, without MoDOT's prior written consent. The contractor must provide written documentation to the project Resident Engineer that the DBE firm is unwilling or unable to perform the work, within five working days of the DBE firm's notice to the contractor of its inability to perform the work.

The Resident Engineer will forward this written documentation and notice of intent to replace a DBE firm to the External Civil Rights Administrator for approval. If the DBE firm's removal is approved, or a DBE withdraws from the contract work, the contractor must make a good faith effort to find a replacement DBE firm. The contractor must make a good faith effort to replace the entire dollar value of the DBE work which was to be performed, and not merely find a replacement for that work which the original DBE firm was to have performed. If MoDOT finds that the contractor did not make a good faith effort to locate alternative DBEs, the contractor is entitled to administrative reconsideration before the Administrative Reconsideration Committee, as set out in section (3) of this rule above. Again, if the Administrative Reconsideration Committee concurs and finds that the contractor did not make a good faith effort to replace the absent DBE firm with other DBE firms, then the contractor is subject to administrative and contract remedies upon final verification of the actual extent of DBE participation in the contract work.

(B) If one or more substitute DBE firms are approved for the contract work by MoDOT, the prime contractor must provide the Resident Engineer and the External Civil Rights Administrator with copies of new or amended subcontracts for those DBE firms. If the contractor fails or refuses to comply in the time specified with any requirement of this section or 49 CFR § 26.53(f), MoDOT will issue an order stopping all or any part of the payments to the contractor on this project or contract, until satisfactory corrective action has been taken. If the contractor remains in non-compliance with any of these requirements or provisions, MoDOT may terminate the contractor for default of the contract work, or take any other appropriate action.

(5) Sanctions for Failure to Meet DBE Contract Commitments. If MoDOT finds that a contractor or other firm has failed to comply with the DBE requirements of its bid, this rule, or 49 CFR § 26.53, then MoDOT shall have the sole authority and discretion to determine the monetary value extent to which the contract DBE goals have not been met, and MoDOT shall assess damages against the contractor in the full amount of that breach, to satisfy and liquidate the contractor's damages for that contract breach. Additionally, MoDOT may impose any other administrative remedies available at law or provided by the contract in the event of such a contract breach. And if the failure to comply with the contractual DBE requirements is intentional or fraudulent in any respect, the contractor and any other firms or persons acting with the contractor are subject to suspension or debarment by MoDOT or the United States, or other civil actions or criminal penalties, in accordance with state and federal law, and USDOT regulations.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.151 Performance of a Commercially Useful Function by a DBE Firm

***PURPOSE: This rule describes when a DBE firm performs a commercially useful function, and how MoDOT and USDOT enforce that requirement in the DBE Program.***

(1) DBE Program Contract Compliance Requirement. Pursuant to 49 CFR § 26.55(c), MoDOT shall count contract expenditures made to a DBE contractor or subcontractor toward the contract's DBE goal only if the DBE firm is performing a "commercially useful function" (CUF) on that contract.

(A) A DBE firm performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising a distinct element of the USDOT-assisted contract



work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used by the DBE firm on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, MoDOT shall evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and any other relevant factors.

(B) Some of these CUF factors are discussed below in more detail:

1. Management. The DBE firm must manage the work that has been contracted or subcontracted to it. Management includes, but is not limited to, scheduling work operations, ordering equipment and materials, preparing and submitting certified payrolls, and hiring and firing employees. All work must be performed with a workforce the DBE firm controls, with a minimum of thirty (30) percent of the work to be performed by the DBE firm's regular, permanent employees, or those hired by the DBE firm for the project from an independent source other than the prime contractor. The DBE owner(s) must supervise daily operations, either personally or with a full time, skilled and knowledgeable superintendent. The superintendent must be under the DBE owners' direct supervision and control. The DBE owner must make all operational and managerial decisions of the firm. Mere performance of administrative duties is not supervision of daily operations.

2. Materials. The DBE firm shall negotiate the cost, arrange delivery, and pay for the materials and supplies for the project. MoDOT will review invoices to verify billing and payment. The DBE must prepare the estimate, quantity of material, and be responsible for the quality of materials actually installed or used. Two-party checks for payment for materials or supplies may be made to the DBE and the supplier only if that process is specifically approved by MoDOT in advance. No credit toward the DBE goal will be given for the cost of materials or supplies paid directly by the prime contractor for the DBE firm.

3. Employees. In order to be considered an independent business, DBE firms must have and keep a regular workforce. DBE firms cannot "share" employees with non-DBE contractors, and in particular, the prime contractor. DBE firms and the contractors must provide MoDOT with copies of their payrolls, to establish that the firms have separate and independent work forces.

(C) A DBE firm does not perform a commercially useful function (CUF) if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE firm is such an extra participant, MoDOT shall examine similar transactions, particularly those in which DBE firms do not participate.

(3) Presumption that a DBE Firm is Not Performing a Commercially Useful Function (CUF). As provided in 49 CFR § 26.55(c)(3), if a DBE firm does not perform or exercise responsibility for at least thirty (30) percent of the total cost of its contract or subcontract with its own work force, or the DBE subcontracts a greater portion of the work of a contract or subcontract than would be expected on the basis of normal industry practice for the type of work involved, MoDOT shall presume that the DBE is not performing a CUF.

(4) DBE's Evidentiary Presentation to Support A Commercially Useful Function Finding. As provide in 49 CFR § 26.55(c)(4), when MoDOT presumes a DBE is not performing a commercially useful function (CUF) under section (3) of this rule, the DBE firm may present evidence to MoDOT to rebut

that presumption. MoDOT shall receive that information on the record, at a hearing recorded verbatim before an independent hearing officer, which hearing is similar in process to those where an existing DBE firm's eligibility is being removed, under rule 7 CSR 10-8.091. The DBE firm shall have the burden of proving, in such an evidentiary hearing on the record, that the DBE firm is performing or did perform a commercially useful function, given the type of work involved and normal industry practices. If the independent hearing officer rules in favor of the DBE firm in whole or in part, then the MoDOT sanctions or remedies for the apparent breach of the contract shall be reduced or eliminated to that extent. If the independent hearing officer finds that the DBE firm did fail to carry its burden and show that it did perform a commercially useful function, considering the type of work involved and normal industry practices, then MoDOT shall impose sanctions or contract remedies accordingly.

(5) Contractor's Evidentiary Presentation to Support a DBE's Performance of a Commercially Useful Function. Likewise, when MoDOT determines a DBE firm is not performing or has not performed a CUF and proposes to disallow or reduce the amount of the contract payments to the contractor involved, or assess liquidated damages against the contractor for its failure to meet its agreed-upon DBE contract goal, MoDOT shall first allow the contractor (and the DBE firm if appropriate) to present evidence to MoDOT to rebut that presumption. . MoDOT shall receive that information on the record, at a hearing recorded verbatim before an independent hearing officer, which hearing is similar in process to those where an existing DBE firm's eligibility is being removed, under rule 7 CSR 10-8.091. The contractor and DBE firm shall have the burden of proving, in such an evidentiary hearing on the record, that the DBE firm is performing or did perform a commercially useful function, given the type of work involved and normal industry practices. If the independent hearing officer rules in favor of the contractor (and DBE firm) in whole or in part, then the MoDOT sanctions or remedies for the apparent breach of the contract shall be reduced or eliminated to that extent. If the independent hearing officer finds that the contractor (and DBE firm) failed to carry their burden and show that the DBE firm did perform a commercially useful function, considering the type of work involved and normal industry practices, then MoDOT shall impose sanctions or contract remedies accordingly.

(6) Review of CUF Determinations by Agencies of USDOT. As provided in 49 CFR § 26.55(c)(5), MoDOT's decision on whether a commercially useful function (CUF) has been performed and the related matters is subject to review by the applicable USDOT operating administration, but these decisions are not administratively appealable to USDOT. It is MoDOT's position that a MoDOT decision on whether a CUF has been performed is not a final action, and so is not subject to judicial review in Missouri courts under Chapter 536 RSMo, at least until after the applicable USDOT operating administration (FHWA, FAA or FTA) has been requested to administratively review that MoDOT decision. At that time, the action (or non-action) of the USDOT operating administration may become the determination which is judicially reviewable, but a federal agency's determination is not reviewable in the state courts of Missouri.

(7) Contract and Other Sanctions for Failure to Perform a Commercially Useful Function. The failure of a DBE firm to perform a commercially useful function (CUF) will result in the dollar value of that DBE firm's work not being credited toward the contractor's DBE goal for that contract. This can, and usually will, result in MoDOT withholding payment from the prime contractor of that entire amount which is not credited, if this results in the contractor's failure to achieve the DBE participation goal for that contract. Deliberate conduct or indifference to the CUF requirements can also lead to the DBE firm's removal of eligibility under the procedures of 7 CSR 10-8.091. In any and all cases of deliberate attempts by the contractor, a DBE firm, or other firms to circumvent the requirements of the USDOT or MoDOT DBE Program, or their related contract requirements, or fraud of any kind, these actions may lead to suspension or debarment of the firms and their affiliates by MoDOT and/or the United States, and may result in criminal prosecution and sanctions, plus civil and contractual liability, of any firm or person involved.

(8) The Obligation of the Contractor and the DBE Firm. It is the obligation of each contractor and DBE firm, prior to submitting a bid on a MoDOT contract, to inquire and understand the DBE Program requirements generally, and specifically the DBE's obligation to perform a commercially useful function, and how to value a DBE firm's work for bidding and contract goal satisfaction purposes. Further, it is the contractor's obligation to make sure that a DBE firm on a project performs a commercially useful function on that federally-assisted contract, in accordance with the contractor's approved bid and contract terms. MoDOT and USDOT have no duty or other obligation to first warn or advise a contractor or DBE firm of a failure to comply with the program requirements, before MoDOT or USDOT take administrative, civil or other actions as a result. If a contractor or DBE firm has any questions or concerns in this regard, they may contact the MoDOT External Civil Rights Unit, USDOT, or the appropriate FHWA, FTA or FAA office nearby. As with other legal requirements, ignorance of the DBE Program obligations is no excuse or justification for a contractor or DBE firm's non-compliance with their contractual and program obligations.

AUTHORITY: Section 226.150, RSMo (1994); Title 49 Code of Federal Regulations Part 26; Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 113; and MoDOT's approved DBE Program submittals to the U.S. Department of Transportation.

#### 7 CSR 10-8.161 Confidentiality of DBE Program Financial and Other Information

**PURPOSE:** *This rule complies with the USDOT requirements of 49 CFR Part 26 on the confidentiality of financial and other confidential information submitted to MoDOT in and for the DBE Program.*

(1) Personal Financial Information Provided for DBE Program Purposes. In compliance with 49 CFR § 26.67(a)(2)(ii), and notwithstanding any provision of state law, MoDOT shall not release an individual's personal net worth statement nor any related documentation concerning or supporting it to any third party without the written consent of the individual who provided or is the subject of that information. Provided, however, that MoDOT shall transmit this information to USDOT for any certification appeal proceeding held under 49 CFR § 26.89 in which the disadvantaged status of that individual is in question.

(2) Confidential Business Information. In compliance with 49 CFR § 26.109(a)(2), MoDOT shall safeguard from disclosure to unauthorized persons any information that may reasonably be considered as confidential business information, consistent with federal and state law. If MoDOT believes that under state law, a third party which has submitted a written request for it is entitled to receive DBE Program information or documentation which the firm or its owners may deem to be confidential business information, MoDOT may notify the firm and its owners a sufficient amount of time in advance of the information release, of the third party's request for information, including information on the identity and address of the third party, so that the firm or its owners may take any legal action they deem appropriate to protect and preserve the confidentiality of that DBE Program information or documentation against disclosure. MoDOT and the Commission also reserve the right and discretionary authority to take legal or judicial action to prevent disclosure of confidential business or personal information acquired in or for the DBE Program, consistent with federal and state law, as MoDOT and the Commission deem appropriate in the circumstances.

(3) Investigative Information. MoDOT's External Civil Right Unit regularly conducts investigations in anticipation of legal actions, causes of action or litigation, including but not limited to information on whether a firm should be DBE certified or recertified, whether a firm's eligibility as a DBE should be removed, whether a bidder made a good faith effort in its bid, whether a DBE firm subcontractor has performed a commercially useful function, or properly performed all the work it was obligated to

under a federally-assisted contract. These investigations, in turn, may be prepared for and provided confidentially to state or federal USDOT or other law enforcement agencies, for civil or criminal prosecution; or may be used by MoDOT and the Commission to support a contract disallowance or breach of contract action. These investigative files in MoDOT's possession are confidential and shall not be produced or disclosed while the investigation is in progress, consistent with federal and state law. If action is taken upon the record developed under this chapter, under 49 CFR Part 26, or under other provisions of state or federal civil, criminal or administrative law, then the pertinent portions or all of that investigative record shall be disclosed to the necessary parties, if and to the extent required of MoDOT by applicable federal or state law.

(4) Other Confidential Information. As required by state and federal law, in producing any DBE Program documents or records, MoDOT shall not disclose to a third party any individual's Social Security number or firm's Employer Identification number. Further, unless a confidential complainant agrees in writing to the release of his or her identity, or the release of information or documentation which will actually or effectually identify that individual, MoDOT shall comply with the mandates of 49 CFR § 26.109(b) and maintain the confidentiality of the identity of every complainant in the DBE Program. If there is any other valid and lawful basis under state or applicable federal law available to preserve the confidentiality of DBE Program information, MoDOT may use and rely upon that legal basis to avoid disclosure of any information MoDOT perceives to be confidential.

(5) Compliance With Lawful Court Order. MoDOT will comply with a lawful order of any court having proper jurisdiction over the Commission, MoDOT or their employees, regarding the release (or not) of any DBE Program documentation or information; subject to the inherent right of the Commission to appeal, seek a writ or seek other judicial relief. In any such legal proceeding to compel disclosure of DBE Program information, MoDOT and the Commission may notify and afford the entity which provided or is the subject of the information, and USDOT or its appropriate operating administration, with the opportunity to participate in the action, and to remove it to federal court or take such other judicial action as each of them deems appropriate.

# **DBE AVAILABILITY STUDY**

Submitted to:

**Missouri Department of Transportation**

Submitted by:

Public Policy Research Centers

University of Missouri-St. Louis

January 2000

## INTRODUCTION

The Missouri Department of Transportation (MoDOT) contracted the University of Missouri-St. Louis Public Policy Research Centers (Centers) to perform a U.S. Department of Transportation (USDOT)-approved Disadvantaged Business Enterprise (DBE) availability study. MoDOT will use the study in implementing and administering the USDOT Title 49 CFR Part 26 DBE Program.

MoDOT identified Standard Industrial Classification (SIC) codes to be included in the study. The Centers reviewed data on firms in those SIC codes for the State of Missouri and the Illinois Counties of St. Clair and Madison and the Kansas Counties of Wyndotte and Johnson (adjacent metropolitan counties). The objective of the study was two fold. First of all, to create a masterlist of DBE firms within or serving those geographic areas and secondly to compare that list to the total number of firms (DBE and nonDBE), identifying a contracting goal based on availability of firms in the marketplace. The study included examining statewide data for Missouri as well as metropolitan market areas within the state.

## METHODOLOGY

### *Data Sources*

The primary data set for this study was a record of firms purchased by the Centers in December 1999 from Dun & Bradstreet Information Services for the following SIC codes selected by MoDOT:

- 1600 – heavy construction
- 1700 – construction special trade contractors
- 0782 – lawn and garden services
- 1522 – general contractors, residential, other than single family
- 1541 – general building contractors
- 2951 – asphalt paving and roofing material
- 3271 – concrete block and brick
- 3273 – ready mix concrete
- 3441 – fabricated structural metal
- 3449 – miscellaneous structural metal work
- 4212 – local trucking, without storage
- 4213 – trucking, except local
- 4214 – local trucking, with storage
- 5032 – brick, stone, and related construction materials
- 7353 – heavy construction equipment rental and lease
- 8711 – engineering services
- 8712 – architectural services
- 8713 – surveying
- 8721 – accounting, auditing and bookkeeping
- 8741 – management services
- 8742 – management consulting
- 8743 – public relations

The Centers requested from Dun & Bradstreet a record of all firms in the above SIC codes for the State of Missouri, and the Illinois Counties of St. Clair and Madison and the Kansas Counties of Wyndotte and Johnson. The Illinois and Kansas counties were included to cover firms in the metropolitan market areas of St. Louis and Kansas City. The data file on each firm included such detail as its address, number of employees, sales volume in addition to SIC code and DBE status.

Data from Dun & Bradstreet was supplemented by examining the listings in the following DBE directories (the DBE directories):

1999 MoDOT Disadvantaged Business Enterprises  
Addendum to 1999 MoDOT Disadvantaged Business Enterprises  
1999 State of Missouri Division of Design and Construction MBE/WBE  
1999 State of Missouri DPMM-MBE/WBE Purchasing Program Certified Women Owned  
Business Enterprises Index  
1999 State of Missouri DPMM-Minority Purchasing Unit Certified Minority Vendors Index  
1999 Kansas Department of Transportation Disadvantaged Business Enterprises  
1999 City of St. Louis Directory of Disadvantaged, Minority and Women Owned Business  
Enterprises  
1999 St. Louis Minority Business Council Directory and Resource Guide  
1999 Bi-State Development Agency Disadvantaged Business Enterprise  
1999 Kansas City Area Transportation Authority D/WBE Vendors Registration  
1999 City of Kansas City Human Relations Department Disadvantaged/Minority Women  
Business Enterprise  
1999 Kansas City Minority Contractors Association  
1999 Kansas City Hispanic Association Contractors Enterprise  
1999 Kansas Department of Transportation/Kansas Department of Commerce and Housing  
Disadvantaged Business Enterprises

### *SIC Codes*

The Standard Industrial Classification (SIC) originally was developed in the 1930's to classify business establishments by the type of activity in which they are primarily engaged and to promote the comparability of establishment data describing various facets of the U.S. economy. The SIC covers the entire field of economic activities by defining industries in accordance with the composition and structure of the economy. Over the years, it was revised periodically to reflect the economy's changing industry composition and organization. The Office of Management and Budget (OMB) last updated the SIC in 1987.<sup>1</sup>

### *Data Comparison*

The data received from Dun & Bradstreet reported 28,398 firms in the selected geography and SIC codes, of which 1,992 were identified as DBE. A preliminary review of the DBE directories indicated there would be the addition of a significant number of firms to the Dun & Bradstreet DBE total. The Centers sought to corroborate from another source whether the base number of 28,398 was a valid report of the total number of businesses in the selected geography and SIC codes.

To confirm the base number, the Centers initially contacted the Missouri Secretary of State's Office in Jefferson City. We were told that they do not have a database in their department that classifies businesses by SIC code. We then contacted the Missouri State Library and were informed that the most accurate information would be the U.S. Census County Business Patterns. We gave library personnel the SIC codes and received from them the total number of businesses in Missouri that were listed in the various codes in the 1997 (latest available) County Business Patterns. Since this information also is available on the Census website, we found the same data for the adjacent Kansas and Illinois metropolitan counties.

The Census Bureau receives records from the Internal Revenue Service for companies that are included in the County Business Patterns. When a business has at least one paid employee at some point in the year, it must register with the Social Security Administration and these are the business names that are forwarded to the Internal Revenue Service. Therefore, the total number generated from The County Business Patterns does not include businesses that are "one-person operations". Also, some of the SIC codes available through

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<sup>1</sup> North American Industry Classification System Association

the Census Bureau varied somewhat from those specified by MoDOT. There are three such discrepancies. SIC 0782 is shown as 0780 (Landscaping and Horticulture Services). SICs 1522 and 1541 are included in SIC 1510 (General Building Contractors), and SICs 4212, 4213, and 4214 are combined into SIC 4210 (Trucking and Courier Services).

The total number of businesses in the geography and SIC codes selected for this study that were reported in the 1997 County Business Patterns is 29,480 (see Table 1). The County Business Pattern data is approximately two years older than Dun & Bradstreet's. It includes only businesses with employees. While there is a difference of approximately 3.8 percent between the totals from the two sources, we feel that the Dun & Bradstreet data is a valid baseline for developing an analysis of the current availability of DBE firms for MoDOT construction projects.

Table 1

| <u>MO-DOT SIC</u> | <u>SIC Code</u> | <u>Total Missouri</u> | <u>Madison</u> | <u>St. Clair</u> | <u>Wyandotte</u> | <u>Johnson</u> | <u>Total</u>  |
|-------------------|-----------------|-----------------------|----------------|------------------|------------------|----------------|---------------|
| 1600s             | 1600s           | 903                   | 48             | 42               | 28               | 72             | 1,093         |
| 1700s             | 1700s           | 9,765                 | 367            | 332              | 196              | 914            | 11,574        |
| 0782              | 0780            | 1,259                 | 54             | 59               | 16               | 160            | 1,548         |
| 1522,1541         | 1510's          | 4,032                 | 213            | 170              | 57               | 393            | 4,865         |
| 2951              | 2951            | 32                    | 1              | 1                | 2                | 2              | 38            |
| 3271              | 3,271           | 0                     | 0              | 2                | 20               | 1              | 23            |
| 3273              | 3273            | 192                   | 6              | 5                | 6                | 7              | 216           |
| 3441              | 3441            | 58                    | 0              | 0                | 0                | 3              | 61            |
| 4212,4213,4214    | 4210            | 3,835                 | 138            | 130              | 134              | 135            | 4,372         |
| 5032              | 5032            | 72                    | 2              | 2                | 3                | 11             | 90            |
| 7353              | 7353            | 75                    | 7              | 2                | 2                | 8              | 94            |
| 8711              | 8711            | 763                   | 21             | 28               | 15               | 175            | 1,002         |
| 8712              | 8712            | 400                   | 14             | 10               | 5                | 58             | 487           |
| 8713              | 8713            | 149                   | 2              | 4                | 3                | 10             | 168           |
| 8721              | 8720            | 1,604                 | 57             | 56               | 15               | 259            | 1,991         |
| 8741              | 8741            | 512                   | 14             | 18               | 13               | 96             | 653           |
| 8742              | 8742            | 834                   | 14             | 23               | 7                | 202            | 1,080         |
| 8743              | 8743            | 104                   | 3              | 2                | 0                | 16             | 125           |
| <b>TOTAL</b>      |                 | <b>24,589</b>         | <b>961</b>     | <b>886</b>       | <b>522</b>       | <b>2,522</b>   | <b>29,480</b> |

#### *Metropolitan Market Areas*

Determining "market areas" for any type of activity can be a very complex endeavor. The number of variables and factors that one might take into account can be very large and the interrelationships among them based on economic and social factors very complex as well. Constructing a market area in this context would entail the use of logistical analysis, econometrics, and statistics as well as the application of economic theories of production and consumption. As this suggests, such a project would be time consuming and very expensive. Also, it is quite likely that diminishing returns would set in rapidly in that the benefits from the increased precision would not be justified by the costs.

An alternative approach is first to select the appropriate metropolitan areas to be included as market areas and then examine social, economic and other data for these areas. While perhaps not as precise as what was described above, this is a widely accepted approach used in defining market areas for many types of goods and services or activities. It certainly is applicable to highway construction market areas.



For this study four metropolitan areas were selected as primary markets analysis. They are St. Louis, Kansas City, Springfield, and Columbia. The balance of the state is treated as a separate market area for purposes of the analysis here.

In defining the scope of the market area in each metropolitan area it was decided to use the county as a basic unit of analysis. Such an approach has a variety of advantages. First, the county is a fundamental unit of government in the United States with a geography that is fixed. This is unlike other governmental jurisdictions that can alter boundaries through annexation, consolidation, incorporation, or disincorporation. Thus the county provides a geographical stability that is beneficial, especially if a study such as this were to be replicated at some point in the future. Second, the county is the basic building block for the definition of metropolitan statistical areas as defined by the Bureau of the Census. Third, there is far more variety and depth of data available for the county as a unit of analysis than for other local jurisdictions.

With this noted social and economic data for counties around the four primary market areas were examined to determine what best defines the market area. This resulted in the following definitions of metropolitan market areas based on the core city and the surrounding county(ies). It should be noted that the situation for the city of St. Louis is slightly different since it is a county as well as the core city of the metropolitan area. The counties identified dominated the social, economic, and public activities in each market area.

#### KANSAS CITY

Jackson County, MO  
Clay County, MO  
Platte County, MO  
Johnson County, KS  
Wyandotte County, KS

#### ST. LOUIS

City of St. Louis, MO  
St Louis County, MO  
St Charles County, MO  
Franklin County, MO  
Jefferson County, MO  
Madison County, IL  
St. Clair County, IL

#### SPRINGFIELD

Greene County, MO

#### COLUMBIA

Boone County, MO

#### *Data Analysis*

As specified in the scope of work defining the Centers responsibilities for this availability study, the following process was followed:

1. The Dun & Bradstreet data first was loaded into a spreadsheet and sorted to identify the number of DBE firms included. A separate file of DBE firms was created from the Dun & Bradstreet data.
2. The records in the DBE directories were manually cross-referenced with the file of DBE firms created from the Dun & Bradstreet data to identify DBE firms not included in Dun & Bradstreet. The data on additional DBE firms was entered into a spreadsheet. The resulting list of firms was thoroughly reviewed by firm name and address to remove duplication. In many cases the same firm was recorded in different directories by variations of the same name. (Example: C. Smith & Associates, Smith & Associates, Calvin Smith & Associates) There are several instances in the final listing of DBE firms where the same firm name appears more than once. For these multiple listings there are different address and telephone numbers for the repeated business names. These may

be branch offices or separate franchises, but it was our judgement in these cases that there appeared to be separate business operations.

3. Combining the Dun & Bradstreet data with the de-duplicated data from the DBE directories created a master list of DBE firms.
4. All of the firms in the Dun & Bradstreet data had assigned SIC codes. Some of the DBE directories had SIC codes included with the descriptive information for each firm. Most of the directories did not. For those firms not assigned a SIC code in the DBE directory, we designated a SIC code based on the descriptive information about the firm. Those firms not engaged in the types of business activity covered by the SIC code selected by MoDOT were not included in DBE masterlist for this study. Many firms are engaged in business activity covered by more than one SIC code. We attempted to designate a SIC code based on the primary activity identified for the firm. We did not include multiple SIC code designations for each firm and did not verify with the firms that the assigned SIC code accurately reflects their primary business activity.
5. For the metropolitan market areas, we sorted firms in the Dun & Bradstreet complete listing and in the DBE masterlist by zipcode. We used the correlation of zipcodes and counties developed by the University of Missouri-Columbia Office of Social and Economic Data Analysis to select firms by counties. We then aggregated the county data by the appropriate metropolitan area. We then compared the metropolitan DBEs data to the metropolitan total firms data.

## **FINDINGS**

### **DBE Availability**

The data received from Dun & Bradstreet included 1,992 DBE firms in Missouri and the adjacent metropolitan counties in Illinois and Kansas. We identified an additional 809 firms not duplicated in the various DBE directories cited above. Of the 809 firms in the DBE directories, 391 were located outside of Missouri and the adjacent metropolitan counties. These outstate firms were eliminated, adding 418 firms to the Dun & Bradstreet data. This created a DBE masterlist with 2,410 firms. The Dun and Bradstreet list included a total of 28,398 firms. The data developed for this study therefore indicates a statewide DBE availability of 8.4 percent  $(1,992 + 418 / 28,398 + 418)$ .

### **DBE Utilization**

MoDOT provided the Centers with a record of DBE firms that for the period 1995 to present had contracts with the department, had bid on department projects, or had registered with a vendor number or prequalified. This record included 192 firms. There were 33 firms in the record that were based outside of Missouri or the adjacent metropolitan counties. Therefore MoDOT's utilization of DBE firms within the geography covered by this study included 159 firms. The availability data above indicate 2,410 DBE firms in Missouri and the adjacent metropolitan counties. The available data therefore indicates MoDOT has a DBE utilization rate of 6.6 percent  $(159 / 2,410)$ .

Included in the total of 159 DBE firms are 2 firms that were reported on MoDOT's utilization record but were not in the Dun & Bradstreet file or the DBE directories examined for this

report. There are 4 firms also included in the 159 used by MoDOT that are DBE firms but were not included in the 2,410 DBE master list because their SIC code did not match those codes included in this study.

#### Market Areas

DBE availability varies among the four metropolitan markets areas examined for this study. Availability in the two largest metropolitan areas is greater than statewide availability and is less than statewide availability in the two smaller metropolitan areas.

Table 2

| <b>Metropolitan Market Area DBE Availability</b> |  |             |  |                     |            |
|--|--|-------------|--|---------------------|------------|
| Area   |  | Total Firms |  | Available DBE Firms | Percentage |
|  |  |             |  |                     |            |
| St. Louis  |  | 9,990       |  | 1,340               | 13.41      |
| Kansas City                                      |  | 5,423       |  | 570                 | 10.51      |
| Columbia   |  | 594         |  | 41                  | 6.90       |
| Springfield                                      |  | 1,179       |  | 67                  | 5.68       |
| Total  |  | 17,186      |  | 2,018               | 11.74      |

The greatest availability of DBE firms is in the St. Louis metropolitan area with approximately 13.5 percent of all firms identified as DBEs. Approximately 10.5 percent of Kansas City firms are DBEs. The Columbia and Springfield areas have DBE availability of approximately 7 percent and just over 5.5 percent respectively.

# **DBE AVAILABILITY STUDY**

## **ADDENDUM**

Submitted to:

**Missouri Department of Transportation**

Submitted by:  
Public Policy Research Center  
University of Missouri-St. Louis

**April 2000**

## INTRODUCTION

The University of Missouri-St. Louis Public Policy Research Center (Center) submitted in January 2000 a report to the Missouri Department of Transportation (MoDOT) on the availability within a designated geography of Disadvantaged Business Enterprises (DBE) in selected Standard Industrial Classification (SIC) codes. The report described the Center's findings after examining a number of data sources on the total number of firms in the selected SIC codes and the number of those firms that are DBE. The analysis also included usage of DBE firms by MoDOT.

### Clarifications Requested

In March 2000 MoDOT requested clarification from the Center on four items included in the report.

1. The report established DBE availability percentages for the metropolitan areas of Kansas City, St. Louis, Springfield, Columbia, and for the entire state of Missouri. After reviewing the report, MoDOT requested a DBE availability percentage for that portion of the state not included in the metropolitan areas and separate from the statewide percentage.
2. The report stated that in calculating the availability percentages, 319 out of state firms were excluded. MoDOT requested the process and rationale for the exclusion be set out to supplement the information in the report.
3. In describing the analysis of MoDOT's utilization of DBE's, the report stated that 33 out of state firms were excluded even though they bid on work or were registered as vendors. MoDOT requested the calculation be revised to include those firms.
4. MoDOT requested SIC codes 1522 and 1541 be excluded from the database and the DBE availability be recalculated.

## Responses

### Item 1. Nonmetropolitan availability

The data received from Dun & Bradstreet had records on 28,398 firms. The address information on those firms placed 17,186 of those firms in the four selected metropolitan areas. Therefore 11,212 of the firms in the Dun & Bradstreet database are located outside of the metropolitan areas.

The DBE masterlist we created by combining firms Dun & Bradstreet reported as DBE with DBE firms from various directories had a total of 2,410 DBE firms. The address information on the DBE firms placed 2,018 in the four selected metropolitan areas. Therefore, 392 of the DBE firms are located outside of the metropolitan areas.

The percentage of available nonmetropolitan DBE firms to total nonmetropolitan firms is as a result 3.5 percent. This would be the availability percentage for all parts of the state not in the selected metropolitan areas. This analysis does not indicate the practical availability of DBE firms in various parts of the state, only the percentage of firms located throughout the nonmetropolitan areas of the state.

## **Items 2 and 3 Firm Exclusions**

Our understanding of the scope of work required that we determine within a defined geography, and in selected SIC codes, the availability and usage of DBE firms. The defined geography determined with MoDOT was the state of Missouri and two adjacent metropolitan counties in Kansas and two adjacent metropolitan counties in Illinois.

The availability research question, as we approached it could be stated, “Based on comparing the number of DBE firms located within the defined geography to the number of all firms located within the defined geography, what percentage of DBE firms are available to participate in contracts let within the defined geography?” Similarly, the usage question should compare DBE firms within the defined geography to firms from within the same geography.

This could be compared to asking if I have a bowl of X number of total nickels and X number of those nickels are 1999 nickels, how many 1999 nickels might I expect if I reached in and grabbed a handful of coins? It is a calculation based on a defined area (only those in the bowl) and comparing the ration of two units, nickels, and a subset of nickels, those minted in 1999.

The proposal we submitted for the project, and the subsequent study agreement included provision to purchase from Dun & Bradstreet a list of all firms based on two parameters, geographic location and SIC code. Dun & Bradstreet provided us a list of firms located within the geography defined above. This made available us no information on where the firms perform their contract work, only the reported location of the firm. The Dun & Bradstreet record for each firm also indicated whether or not it was a DBE.

We supplemented the DBE data for the defined geography by including firms from DBE directories selected from the same geography – the St. Louis and Kansas City metropolitan areas, the states of Missouri, Kansas, and Illinois. We included in our calculations only those firms from the supplemental directories that were located in the same geography as the Dun & Bradstreet data to which they were added.

It is our judgement that adding firms from outside the defined geography changes the research question. If we add DBE firms outside the defined geography that we acquired from supplemental lists the research question becomes, “Based on comparing the number of DBE firms located within the defined geography or known to operate within the defined geography to the number of all firms located within the defined geography, what would be an expected rate of participation by DBE firms in contracts let within the defined geography?” This is a valid research question but it is not the same mathematical calculation as the first research question. The same is true for the usage calculation.

Continuing the analogy from above, if we wanted to draw more 1999 nickels in a handful of coins, we could add 1999 nickels from a second bowl. Mathematically we could add the number of 1999 nickels selected from the second bowl to the total number in the first bowl, and determine our expected chance of drawing 1999 nickels in a handful of coins. But then we are not calculating the availability of 1999 nickels in the first bowl. Nor are we calculating the number of 1999 nickels in both bowels because we have subjectively selected some nickels from the second bowl. It was our understanding that we were to determine the availability of DBE firms (1999 nickels) within the defined geography (the bowl), not to calculate a figure including firms from any geographic source (nickels from other bowls). The problem with adding the out of state firms is that the statistical calculation then becomes meaningless relative to the geography parameter established for the research. There are many research questions that could be asked about the out of state firms. Or the Center could have requested from Dun & Bradstreet data on geography different from the designated geography. Contracting with available and 'known' firms is not a policy or administrative decision that we question. It simply creates a different statistical calculation.

#### **Item 4 SIC Code Exclusions**

Deleting SIC codes 1522 and 1541 does not affect the DBE availability. It changes the numbers to 2,317 available DBE's out of 27,713 firms or .0836 which rounds to 8.4 percent as stated in the draft report.





**Attachment 10**  
**Market Area Summary**  
**Construction Project DBE Participation**  
**FY 1998 Oct. 1997 -Sept. 1998**

| Availability<br>Market Areas | # of<br>Projects | Contract Amount  | Intended DBE    | Approved<br>DBE | Intended<br>DBE % | Approved<br>DBE % |
|------------------------------|------------------|------------------|-----------------|-----------------|-------------------|-------------------|
| Kansas City<br>Area          | 10               | \$105,666,374.50 | \$14,072,904.42 | \$21,016,278.27 | 13.32%            | 19.89%            |
| St. Louis Area               | 30               | \$149,976,601.56 | \$19,152,316.60 | \$18,666,598.59 | 12.77%            | 12.45%            |
| Columbia Area                | 1                | \$4,084,427.93   | \$408,443.11    | \$417,206.15    | 10.00%            | 10.21%            |
| Springfield<br>Area          | 2                | \$2,700,992.39   | \$261,707.20    | \$313,172.10    | 9.69%             | 11.59%            |
| Out State Area               | 58               | \$233,445,900.31 | \$21,454,583.56 | \$24,253,895.63 | 9.19%             | 10.39%            |

**Market Area Summary**  
**Construction Project DBE Participation**  
**FY 1999 Oct. 1998 -Sept. 1999**

| Availability<br>Market Areas | # of<br>Projects | Contract Amount  | Intended DBE    | Approved DBE    | Intended<br>DBE % | Approved<br>DBE % |
|------------------------------|------------------|------------------|-----------------|-----------------|-------------------|-------------------|
| Kansas City<br>Area          | 12               | \$86,552,424.60  | \$11,968,559.64 | \$11,014,204.23 | 13.83%            | 12.73%            |
| St. Louis Area**             | 31               | \$125,361,595.54 | \$17,320,388.23 | \$17,797,455.21 | 13.82%            | 14.20%            |
| Columbia Area                | 5                | \$18,987,809.29  | \$1,524,927.57  | \$1,584,043.58  | 8.03%             | 8.34%             |
| Springfield<br>Area          | 5                | \$26,937,060.56  | \$2,726,434.18  | \$2,708,689.84  | 10.12%            | 10.06%            |
| Out State Area               | 73               | \$268,885,625.02 | \$25,274,700.46 | \$26,521,636.38 | 9.40%             | 9.86%             |

\*\* 2 Projects included in the 1999 Fiscal Year in St. Louis exceeded 70 Million dollars, however, opportunities for subcontracting (structural steel) were limited. The inclusion of these projects and the low DBE percentage artificially reduced the DBE participation that can be expected under normal contracting procedures. The data for these projects was excluded in the calculations.



## Attachment 11

### KC Projects

| 1998                      | Project  | \$ Bid           | Bid %    | \$ Sub         | Sub %  |
|---------------------------|----------|------------------|----------|----------------|--------|
| CONTRACTOR                | DATE     | PRICE            | DBE Goal | Total          | Total  |
| SUPERIOR BOWEN ASPHALT CO | 12/12/97 | \$4,558,381.68   | 12.00    | \$547,740.00   | 12.02% |
| MASTERS JACKSON PAVING    | 01/30/98 | \$3,470,795.44   | 12.00    | \$442,031.25   | 12.74% |
| SUPERIOR BOWEN ASPHALT CO | 02/20/98 | \$1,318,751.85   | 12.00    | \$128,690.00   | 9.76%  |
| VA ELLIS CONSTRUCTION     | 03/20/98 | \$40,657,391.51  | 15.00    | \$6,098,609.00 | 15.00% |
| SUPERIOR BOWEN ASPHALT CO | 04/24/98 | \$8,392,453.80   | 11.00    | \$923,169.92   | 11.00% |
| DOMANCHE CONSTRUCTION     | 05/22/98 | \$9,469,214.70   | 15.00    | \$1,481,328.30 | 15.64% |
| DOMANCHE CONSTRUCTION     | 05/22/98 | \$18,388,829.75  | 10.00    | \$2,092,285.45 | 11.38% |
| G BARCUS & SONS           | 06/19/98 | \$1,399,853.35   | 10.00    | \$142,000.00   | 10.14% |
| DEKER INC                 | 07/24/98 | \$14,041,618.42  | 12.00    | \$1,685,811.50 | 12.01% |
| G BARCUS & SONS           | 08/21/98 | \$3,969,084.00   | 13.00    | \$531,239.00   | 13.38% |
|                           | 10       | \$105,666,374.50 |          |                |        |
| 1999                      |          |                  |          |                |        |
| AMES CAPE & SONS COMPANY  | 10/23/98 | \$9,343,794.96   | 13.00    | \$1,218,832.34 | 13.04% |
| KA KNAPP CONSTRUCTION     | 12/02/98 | \$1,449,989.77   | 14.00    | \$205,609.50   | 14.18% |
| LARKSON CONSTRUCTION      | 12/02/98 | \$32,430,598.22  | 13.00    | \$4,221,090.00 | 13.02% |
| MEGA INDUSTRIES CORP      | 12/02/98 | \$131,189.74     | 16.00    | \$21,264.72    | 16.21% |
| VA ELLIS CONSTRUCTION     | 03/19/99 | \$10,268,548.43  | 15.00    | \$1,541,294.20 | 15.01% |
| MEGA INDUSTRIES CORP      | 03/19/99 | \$648,343.10     | 0.00     | \$0.00         | 0.00%  |
| LOCH SAND & CONSTRUCTION  | 03/19/99 | \$7,856,576.14   | 15.00    | \$1,183,076.00 | 15.06% |
| SUPERIOR BOWEN ASPHALT CO | 03/19/99 | \$938,350.55     | 14.00    | \$131,369.08   | 14.00% |
| AMES CAPE & SONS COMPANY  | 04/23/99 | \$17,568,166.98  | 15.00    | \$2,700,000.00 | 15.37% |
| AMON PURSELL              | 05/21/99 | \$2,655,645.94   | 11.00    | \$417,923.40   | 15.74% |
| CONSTRUCTION              |          |                  |          |                |        |
| AMES H DREW CORP          | 05/21/99 | \$2,539,179.77   | 10.00    | \$255,055.65   | 10.04% |
| EARTHWORKS OF KS LLC      | 09/17/99 | \$722,041.00     | 10.00    | \$73,044.75    | 10.12% |
|                           | 12       | \$86,552,424.60  |          |                |        |

## St. Louis Projects

| FY 1998                   |          |                  | Project  | \$ Bid         | Bid %  | \$ Sub         | Sub %  |
|---------------------------|----------|------------------|----------|----------------|--------|----------------|--------|
| CONTRACTOR                | DATELET  | CONTRPRICE       | DBE Goal | Total          | Total  | Total          | Total  |
| MILLSTONE BANGERT         | 10/24/97 | \$13,073,840.42  | 13.00    | \$1,700,000.00 | 13.00% | \$1,825,353.50 | 13.96% |
| MILLSTONE BANGERT         | 10/24/97 | \$3,354,366.50   | 10.00    | \$340,000.00   | 10.14% | \$471,765.40   | 14.06% |
| JH BERRA CONSTRUCTION     | 12/12/97 | \$5,442,716.01   | 12.00    | \$654,197.00   | 12.02% | \$547,122.92   | 10.05% |
| GERSTNER ELECTRIC         | 12/12/97 | \$42,071.00      | 0.00     | \$0.00         | 0.00%  | \$0.00         | 0.00%  |
| FRED WEBER                | 12/12/97 | \$7,489,236.51   | 11.00    | \$823,836.02   | 11.00% | \$935,256.47   | 12.49% |
| FRED WEBER                | 12/12/97 | \$24,731,884.42  | 15.00    | \$3,699,771.66 | 14.96% | \$3,616,109.91 | 14.62% |
| FRED WEBER                | 12/12/97 | \$2,735,984.63   | 13.00    | \$485,678.00   | 17.75% | \$473,875.59   | 17.32% |
| GERSTNER ELECTRIC         | 12/12/97 | \$48,420.00      | 0.00     | \$0.00         | 0.00%  | \$0.00         | 0.00%  |
| MIDWEST FOUNDATION CORP   | 01/30/98 | \$28,190,563.10  | 11.00    | \$3,126,835.00 | 11.09% | \$2,297,610.57 | 8.15%  |
| FRED WEBER                | 02/20/98 | \$1,347,597.55   | 12.00    | \$161,711.71   | 12.00% | \$169,591.90   | 12.58% |
| PACE CONSTRUCTION COMPANY | 02/20/98 | \$1,047,923.70   | 10.00    | \$106,000.00   | 10.12% | \$108,363.80   | 10.34% |
| PACE CONSTRUCTION COMPANY | 02/20/98 | \$8,215,600.01   | 12.00    | \$1,006,762.00 | 12.25% | \$1,037,185.34 | 12.62% |
| PACE CONSTRUCTION COMPANY | 02/20/98 | \$698,419.50     | 13.00    | \$91,300.00    | 13.07% | \$99,322.68    | 14.22% |
| FRED WEBER                | 03/20/98 | \$1,637,111.04   | 12.00    | \$196,453.32   | 12.00% | \$197,362.10   | 12.06% |
| FRED WEBER                | 03/20/98 | \$3,143,617.63   | 11.00    | \$345,747.94   | 11.00% | \$331,590.08   | 10.55% |
| GERSTNER ELECTRIC         | 04/24/98 | \$710,613.00     | 0.00     | \$0.00         | 0.00%  | \$0.00         | 0.00%  |
| JH BERRA CONSTRUCTION     | 04/24/98 | \$5,487,000.00   | 11.00    | \$614,544.00   | 11.20% | \$634,454.76   | 11.56% |
| KOZENY WAGNER INC         | 04/24/98 | \$176,534.13     | 0.00     | \$0.00         | 0.00%  | \$4,021.79     | 2.28%  |
| KOZENY WAGNER INC         | 04/24/98 | \$196,401.48     | 0.00     | \$0.00         | 0.00%  | \$3,994.32     | 2.03%  |
| NB WEST CONTRACTING       | 04/24/98 | \$5,369,669.73   | 12.00    | \$751,907.81   | 14.00% | \$760,347.61   | 14.16% |
| MULLIGAN CONSTRUCTION     | 04/24/98 | \$958,009.40     | 0.00     | \$0.00         | 0.00%  | \$0.00         | 0.00%  |
| SPECTRUM UTILITY SERVICES | 05/22/98 | \$259,381.86     | 8.00     | \$20,956.04    | 8.08%  | \$20,956.04    | 8.08%  |
| NB WEST CONTRACTING       | 05/22/98 | \$188,204.40     | 13.00    | \$24,469.00    | 13.00% | \$24,469.05    | 13.00% |
| FRED WEBER                | 05/22/98 | \$3,074,619.89   | 15.00    | \$461,249.00   | 15.00% | \$461,249.00   | 15.00% |
| KCI CONSTRUCTION COMPANY  | 06/19/98 | \$22,077,171.37  | 15.00    | \$3,312,029.00 | 15.00% | \$3,494,891.07 | 15.83% |
| MULLIGAN CONSTRUCTION     | 07/24/98 | \$507,835.00     | 10.00    | \$51,000.00    | 10.04% | \$43,344.52    | 8.54%  |
| GAINES CONSTRUCTION       | 08/21/98 | \$2,040,369.51   | 11.00    | \$224,540.00   | 11.00% | \$215,540.50   | 10.56% |
| JH BERRA CONSTRUCTION     | 08/21/98 | \$3,468,000.00   | 11.00    | \$384,824.10   | 11.10% | \$183,888.90   | 5.30%  |
| MILLSTONE BANGERT         | 08/21/98 | \$2,958,835.33   | 13.00    | \$384,650.00   | 13.00% | \$511,943.77   | 17.30% |
| COLLINS & HERMANN INC     | 09/18/98 | \$1,304,604.44   | 14.00    | \$183,855.00   | 14.09% | \$196,987.00   | 15.10% |
|                           | 30       | \$149,976,601.56 |          |                |        |                |        |

## FY 1999

|                               |          |                  |        |                |         |                |         |
|-------------------------------|----------|------------------|--------|----------------|---------|----------------|---------|
| FRED WEBER                    | 10/23/98 | \$1,179,729.83   | 14.00  | \$165,181.40   | 14.00%  | \$165,181.40   | 14.00%  |
| D & S FENCING                 | 10/23/98 | \$130,556.00     | 15.00  | \$130,556.00   | 100.00% | \$130,556.00   | 100.00% |
| RV WAGNER INC                 | 12/02/98 | \$93,357.95      | 16.00  | \$14,940.00    | 16.00%  | \$14,939.96    | 16.00%  |
| SPECTRUM UTILITY SERVICES     | 12/02/98 | \$131,139.74     | 12.00  | \$40,219.80    | 30.67%  | \$40,219.80    | 30.67%  |
| SPECTRUM UTILITY SERVICES     | 12/02/98 | \$192,367.22     | 0.00   | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| FRED WEBER                    | 01/21/99 | \$14,492,644.50  | 14.00  | \$2,029,940.00 | 14.01%  | \$2,805,029.90 | 19.35%  |
| WALTER CONSTRUCTION (USA) INC | 36182    | 73470543.7       | \$7.00 | \$5,143,000.00 | \$0.07  | \$6,016,707.00 | \$0.08  |
| FRED WEBER                    | 01/22/99 | \$3,022,153.56   | 11.00  | \$333,190.00   | 11.02%  | \$339,306.77   | 11.23%  |
| FRED WEBER                    | 01/22/99 | \$4,636,311.51   | 11.00  | \$510,151.50   | 11.00%  | \$522,395.64   | 11.27%  |
| NB WEST CONTRACTING           | 01/22/99 | \$1,948,991.66   | 13.00  | \$253,432.10   | 13.00%  | \$301,118.75   | 15.45%  |
| KCI CONSTRUCTION COMPANY      | 02/19/99 | \$1,240,410.45   | 2.00   | \$24,850.00    | 2.00%   | \$20,560.70    | 1.66%   |
| PACE CONSTRUCTION COMPANY     | 02/19/99 | \$5,567,853.72   | 15.00  | \$856,526.63   | 15.38%  | \$757,980.14   | 13.61%  |
| KOZENY WAGNER INC             | 02/19/99 | \$860,643.94     | 16.00  | \$139,692.08   | 16.23%  | \$151,580.18   | 17.61%  |
| MILLSTONE BANGERT             | 02/19/99 | \$1,726,403.42   | 13.00  | \$227,240.00   | 13.16%  | \$234,439.80   | 13.58%  |
| FRED WEBER                    | 03/19/99 | \$8,734,141.53   | 11.00  | \$960,969.00   | 11.00%  | \$1,037,888.03 | 11.88%  |
| MILLSTONE BANGERT             | 03/19/99 | \$19,120,906.84  | 14.00  | \$2,900,000.00 | 15.17%  | \$2,067,362.26 | 10.81%  |
| FRED WEBER                    | 03/19/99 | \$9,046,588.58   | 8.00   | \$723,995.60   | 8.00%   | \$804,976.10   | 8.90%   |
| PACE CONSTRUCTION COMPANY     | 03/19/99 | \$817,188.64     | 14.00  | \$718,461.88   | 87.92%  | \$718,672.76   | 87.94%  |
| ST LOUIS BRIDGE               | 04/23/99 | \$1,482,679.05   | 14.00  | \$208,349.85   | 14.05%  | \$256,251.05   | 17.28%  |
| KOZENY WAGNER INC             | 04/23/99 | \$1,809,279.62   | 13.00  | \$245,972.00   | 13.60%  | \$294,067.84   | 16.25%  |
| KOZENY WAGNER INC             | 04/23/99 | \$15,387,721.03  | 14.00  | \$2,207,653.32 | 14.35%  | \$2,389,731.47 | 15.53%  |
| GERSTNER ELECTRIC             | 04/23/99 | \$341,051.00     | 11.00  | \$612,549.20   | 179.61% | \$612,549.20   | 179.61% |
| PACE CONSTRUCTION COMPANY     | 05/21/99 | \$604,295.48     | 0.00   | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| FRED WEBER                    | 05/21/99 | \$5,857,547.24   | 12.00  | \$703,697.56   | 12.01%  | \$946,269.29   | 16.15%  |
| PACE CONSTRUCTION COMPANY     | 05/21/99 | \$557,425.95     | 0.00   | \$0.00         | 0.00%   | \$10,194.50    | 1.83%   |
| PACE CONSTRUCTION COMPANY     | 05/21/99 | \$5,783,130.20   | 14.00  | \$809,775.00   | 14.00%  | \$819,542.50   | 14.17%  |
| FRED WEBER                    | 05/21/99 | \$4,989,726.65   | 15.00  | \$748,749.00   | 15.01%  | \$749,635.46   | 15.02%  |
| EDWARD KRAEMER & SONS         | 36329    | 79378781.6       | 3      | 2383627        | 0.03    | 0              | 0       |
| JH BERRA CONSTRUCTION         | 06/18/99 | \$7,623,000.00   | 7.00   | \$676,086.76   | 8.87%   | \$617,144.11   | 8.10%   |
| KOZENY WAGNER INC             | 07/23/99 | \$536,110.24     | 3.00   | \$16,786.40    | 3.13%   | \$57,281.69    | 10.68%  |
| GAINES CONSTRUCTION           | 08/20/99 | \$3,362,628.21   | 15.00  | \$505,141.55   | 15.02%  | \$505,141.55   | 15.02%  |
| GOODWIN BROS CONSTRUCTION     | 09/17/99 | \$2,625,000.01   | 12.00  | \$336,700.00   | 12.83%  | \$337,410.81   | 12.85%  |
| FRED WEBER                    | 09/17/99 | \$1,460,611.77   | 15.00  | \$219,547.60   | 15.03%  | \$215,123.55   | 14.73%  |
|                               | 33       | \$278,210,920.84 |        |                |         |                |         |

### Columbia Projects

| FY 1998                              |          |                 | Project  | \$ Bid       | Bid %  | \$ Sub       | Sub %  |
|--------------------------------------|----------|-----------------|----------|--------------|--------|--------------|--------|
| CONTRACTOR                           | DATELET  | CONTRPRICE      | DBE Goal | Total        | Total  | Total        | Total  |
| CHESTER BROSS CONST/CB EQUIP INC     | 09/18/98 | \$4,084,427.93  | 10.00    | \$408,443.11 | 10.00% | \$417,206.15 | 10.21% |
|                                      |          |                 |          |              |        |              |        |
| FY 1999                              | 1        | \$4,084,427.93  |          |              |        |              |        |
| WAPAC MISSOURI RICHARDSON BASS       | 01/22/99 | \$3,623,242.80  | 10.00    | \$362,793.17 | 10.01% | \$398,155.98 | 10.99% |
| WAPAC MISSOURI CENTRAL COMPANIES DIV | 02/19/99 | \$415,377.41    | 10.00    | \$59,519.54  | 14.33% | \$64,728.10  | 15.58% |
| WAPAC MISSOURI                       | 05/21/99 | \$6,780,333.22  | 10.00    | \$694,171.75 | 10.24% | \$703,953.35 | 10.38% |
|                                      |          |                 |          |              |        |              |        |
|                                      | 5        | \$18,987,809.29 |          |              |        |              |        |

### Springfield Projects

| FY 1998                              |          |                 | Project  | \$ Bid         | Bid %   | \$ Sub         | Sub %   |
|--------------------------------------|----------|-----------------|----------|----------------|---------|----------------|---------|
| CONTRACTOR                           | DATELET  | CONTRPRICE      | DBE Goal | Total          | Total   | Total          | Total   |
| BURK BRIDGE COMPANY                  | 04/24/98 | \$2,004,255.89  | 10.00    | \$203,247.00   | 10.14%  | \$207,539.10   | 10.35%  |
| JOHN BURK CONSTRUCTION               | 04/24/98 | \$696,736.50    | 8.00     | \$58,460.20    | 8.39%   | \$105,633.00   | 15.16%  |
|                                      |          |                 |          |                |         |                |         |
|                                      | 2        | \$2,700,992.39  |          |                |         |                |         |
| FY 1999                              |          |                 |          |                |         |                |         |
| WAPAC MISSOURI MASTERS JACKSON       | 01/22/99 | \$4,220,955.27  | 10.00    | \$422,117.07   | 10.00%  | \$422,900.96   | 10.02%  |
| WAPAC MISSOURI CENTRAL COMPANIES DIV | 02/19/99 | \$5,992,398.92  | 10.00    | \$603,534.33   | 10.07%  | \$598,878.45   | 9.99%   |
| KENNEDY CONTRACTORS INC              | 03/19/99 | \$64,582.00     | 0.00     | \$64,582.00    | 100.00% | \$64,582.00    | 100.00% |
| SIERRA BRAVO INC                     | 06/18/99 | \$14,994,824.97 | 10.00    | \$1,501,797.78 | 10.02%  | \$1,547,450.93 | 10.32%  |
| HARTMAN & CO INC                     | 08/20/99 | \$1,664,299.40  | 8.00     | \$134,403.00   | 8.08%   | \$139,459.50   | 8.38%   |
|                                      |          |                 |          |                |         |                |         |
|                                      | 5        | \$26,937,060.56 |          |                |         |                |         |

## Out State Projects

FY 1998

| Y 1998                            |          |                 | Project  | \$ Bid         | Bid %   | \$ Sub         | Sub %   |
|-----------------------------------|----------|-----------------|----------|----------------|---------|----------------|---------|
| CONTRACTOR                        | DATELET  | CONTRPRICE      | DBE Goal | Total          | Total   | Total          | Total   |
| PACE CONSTRUCTION COMPANY         | 08/21/98 | \$219,340.88    | 16.00    | \$36,186.20    | 16.50%  | \$36,186.20    | 16.50%  |
| EMERY SAPP & SONS                 | 12/12/97 | \$8,182,321.57  | 10.00    | \$820,992.60   | 10.03%  | \$497,358.10   | 6.08%   |
| ROBERTSON CONTRACTORS             | 09/18/98 | \$4,621,237.76  | 11.00    | \$519,729.06   | 11.25%  | \$402,695.81   | 8.71%   |
| MASSMAN CONSTRUCTION              | 03/20/98 | \$25,630,417.00 | 6.00     | \$1,543,248.00 | 6.02%   | \$1,885,987.65 | 7.36%   |
| NICHOLSON CONSTRUCTION COMPANY    | 03/20/98 | \$3,885,200.00  | 0.00     | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| JORRIS ASPHALT PAVING             | 02/20/98 | \$7,791,107.15  | 7.00     | \$575,000.00   | 7.38%   | \$685,328.80   | 8.80%   |
| JORRIS ASPHALT PAVING             | 03/20/98 | \$4,120,239.96  | 7.00     | \$378,036.00   | 9.18%   | \$403,679.05   | 9.80%   |
| DOCH SAND & CONSTRUCTION          | 12/12/97 | \$3,526,116.53  | 10.00    | \$382,911.00   | 10.86%  | \$401,637.39   | 11.39%  |
| HERZOG CONTRACTING CORP           | 04/24/98 | \$2,047,570.75  | 8.00     | \$234,570.00   | 11.46%  | \$255,074.78   | 12.46%  |
| ST JOSEPH FUEL OIL & MFG          | 04/24/98 | \$368,026.44    | 5.00     | \$51,000.00    | 13.86%  | \$69,532.40    | 18.89%  |
| PARIS ASPHALT COMPANY             | 01/30/98 | \$3,409,251.86  | 10.00    | \$375,890.62   | 11.03%  | \$807,903.19   | 23.70%  |
| RICHARDSON & BASS CONSTRUCTION CO | 10/24/97 | \$2,942,200.91  | 7.00     | \$206,879.88   | 7.03%   | \$206,879.88   | 7.03%   |
| BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$3,177,879.81  | 7.00     | \$231,858.34   | 7.30%   | \$330,624.15   | 10.40%  |
| VL MILLER COMPANY                 | 02/20/98 | \$1,717,878.67  | 0.00     | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| HALL & RILEY PAVING CO            | 02/20/98 | \$648,314.83    | 6.00     | \$47,092.50    | 7.26%   | \$52,097.50    | 8.04%   |
| HARDYS INC                        | 04/24/98 | \$1,044,932.31  | 7.00     | \$78,973.88    | 7.56%   | \$74,699.53    | 7.15%   |
| HARRY H HOUF & SONS CONTRACTORS   | 04/24/98 | \$558,889.65    | 7.00     | \$40,178.00    | 7.19%   | \$38,718.50    | 6.93%   |
| HOWARD CONSTRUCTION               | 04/24/98 | \$7,764,222.75  | 10.00    | \$847,436.78   | 10.91%  | \$1,286,900.16 | 16.57%  |
| DEKER INC                         | 05/22/98 | \$8,595,688.54  | 10.00    | \$859,569.00   | 10.00%  | \$934,530.96   | 10.87%  |
| EMERY SAPP & SONS                 | 03/19/98 | \$2,492,642.46  | 9.00     | \$243,530.53   | 9.77%   | \$228,132.53   | 9.15%   |
| HARDYS INC                        | 06/19/98 | \$1,302,152.86  | 10.00    | \$109,292.55   | 8.39%   | \$137,681.65   | 10.57%  |
| AINES CONSTRUCTION                | 02/20/98 | \$524,236.10    | 8.00     | \$42,069.50    | 8.02%   | \$63,298.20    | 12.07%  |
| BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$4,207,338.69  | 7.00     | \$295,297.03   | 7.02%   | \$339,410.60   | 8.07%   |
| BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$2,894,485.81  | 10.00    | \$293,049.74   | 10.12%  | \$309,318.30   | 10.69%  |
| PACE CONSTRUCTION COMPANY         | 01/30/98 | \$728,052.71    | 10.00    | \$72,812.48    | 10.00%  | \$72,812.48    | 10.00%  |
| COLUMBIA CURB & GUTTER            | 09/18/98 | \$267,357.03    | 13.00    | \$267,357.03   | 100.00% | \$267,357.03   | 100.00% |
| DEKER INC                         | 04/24/98 | \$1,448,414.04  | 10.00    | \$144,841.40   | 10.00%  | \$165,422.17   | 11.42%  |
| HILTY QUARRIES                    | 09/18/98 | \$11,210,558.51 | 11.00    | \$1,250,111.94 | 11.15%  | \$1,196,294.57 | 10.67%  |
| CHESTER BROSS CONST/CB EQUIP INC  | 12/12/97 | \$7,211,708.45  | 9.00     | \$650,933.03   | 9.03%   | \$703,733.43   | 9.76%   |
| HALL & RILEY PAVING CO            | 02/20/98 | \$2,197,218.05  | 10.00    | \$289,015.40   | 13.15%  | \$801,091.70   | 36.46%  |

|                                 |          |                  |       |                |         |                |         |
|---------------------------------|----------|------------------|-------|----------------|---------|----------------|---------|
| HILTY QUARRIES                  | 10/24/97 | \$3,516,961.22   | 11.00 | \$396,696.41   | 11.28%  | \$405,077.30   | 11.52%  |
| HESTER BROSS CONST/CB EQUIP INC | 04/24/98 | \$6,969,786.25   | 12.00 | \$847,162.75   | 12.15%  | \$2,449,184.20 | 35.14%  |
| ENSEN CONSTRUCTION COMPANY      | 12/12/97 | \$241,497.10     | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| EDWARD KRAEMER & SONS           | 01/30/98 | \$5,036,897.75   | 5.00  | \$266,359.00   | 5.29%   | \$277,887.09   | 5.52%   |
| AKE OZARK CONSTRUCTION          | 01/30/98 | \$2,373,666.96   | 11.00 | \$261,902.38   | 11.03%  | \$254,743.38   | 10.73%  |
| PLEX INC                        | 03/20/98 | \$187,918.42     | 5.00  | \$187,918.42   | 100.00% | \$187,918.42   | 100.00% |
| ENSEN CONSTRUCTION COMPANY      | 01/30/98 | \$9,190,278.00   | 2.00  | \$202,414.00   | 2.20%   | \$221,197.50   | 2.41%   |
| H BERRA CONSTRUCTION            | 04/24/98 | \$3,091,961.00   | 10.00 | \$309,816.50   | 10.02%  | \$316,816.50   | 10.25%  |
| MASTERS JACKSON PAVING          | 12/12/97 | \$2,568,653.30   | 10.00 | \$260,095.00   | 10.13%  | \$260,095.00   | 10.13%  |
| SIERRA BRAVA INC                | 01/30/98 | \$10,853,930.07  | 7.00  | \$797,746.15   | 7.35%   | \$902,774.15   | 8.32%   |
| CENTRAL BRIDGE COMPANY          | 01/30/98 | \$5,012,951.62   | 7.00  | \$359,741.00   | 7.18%   | \$407,024.60   | 8.12%   |
| REESEN INC                      | 08/21/98 | \$21,093,178.27  | 12.00 | \$2,541,952.01 | 12.05%  | \$1,644,678.61 | 7.80%   |
| MISSOURI BRIDGE & CONCRETE      | 10/24/97 | \$1,214,095.26   | 7.00  | \$85,074.90    | 7.01%   | \$86,874.90    | 7.16%   |
| EO JOURNAGAN CONSTRUCTION       | 03/20/98 | \$503,573.43     | 8.00  | \$40,989.25    | 8.14%   | \$45,564.49    | 9.05%   |
| PAC MISSOURI MASTERS JACKSON    | 04/24/98 | \$2,064,700.86   | 9.00  | \$317,877.00   | 15.40%  | \$335,569.16   | 16.25%  |
| VA ELLIS CONSTRUCTION           | 10/24/97 | \$6,064,610.40   | 7.00  | \$514,184.00   | 8.48%   | \$547,653.23   | 9.03%   |
| EO JOURNAGAN CONSTRUCTION       | 03/20/98 | \$1,718,535.45   | 10.00 | \$173,402.70   | 10.09%  | \$171,414.33   | 9.97%   |
| HESTER BROSS CONST/CB EQUIP INC | 07/24/98 | \$6,193,950.35   | 12.00 | \$745,481.07   | 12.04%  | \$784,145.09   | 12.66%  |
| EO JOURNAGAN CONSTRUCTION       | 01/30/98 | \$625,236.35     | 7.00  | \$51,401.20    | 8.22%   | \$52,974.40    | 8.47%   |
| PAC MISSOURI RICHARDSON BASS    | 04/24/98 | \$1,471,698.84   | 7.00  | \$133,235.20   | 9.05%   | \$130,623.20   | 8.88%   |
| PAC MISSOURI INC                | 08/21/98 | \$1,682,785.61   | 10.00 | \$168,406.32   | 10.01%  | \$162,088.28   | 9.63%   |
| HOWARD CONSTRUCTION             | 05/22/98 | \$4,878,912.04   | 10.00 | \$677,769.50   | 13.89%  | \$994,729.14   | 20.39%  |
|                                 | 12/12/97 | \$4,899,082.37   | 10.00 | \$498,449.10   | 10.17%  | \$534,325.35   | 10.91%  |
| PACE CONSTRUCTION COMPANY       | 03/20/98 | \$438,413.26     | 7.00  | \$31,005.62    | 7.07%   | \$31,005.62    | 7.07%   |
| PACE CONSTRUCTION COMPANY       | 04/24/98 | \$1,542,963.34   | 10.00 | \$157,478.82   | 10.21%  | \$156,678.82   | 10.15%  |
| PACE CONSTRUCTION COMPANY       | 04/24/98 | \$2,036,548.20   | 10.00 | \$203,893.25   | 10.01%  | \$258,126.55   | 12.67%  |
| VEST PLAINS BRIDGE & GRADING    | 04/24/98 | \$1,034,647.71   | 10.00 | \$104,300.00   | 10.08%  | \$107,845.00   | 10.42%  |
| BROSS CONST CO/CB EQUIPMENT INC | 02/20/98 | \$2,203,464.80   | 10.00 | \$231,969.52   | 10.53%  | \$296,565.52   | 13.46%  |
|                                 | 58       | \$233,445,900.31 |       |                |         |                |         |



|   |          |                |       |                |         |                |         |
|---|----------|----------------|-------|----------------|---------|----------------|---------|
| Y 1999  |          |                |       |                |         |                |         |
| SIRARDEAU CONTRACTORS                             | 05/21/99 | \$1,336,313.99 | 10.00 | \$158,628.00   | 11.87%  | \$290,764.53   | 21.76%  |
| BLOOMSDALE EXCAVATING COMPANY                     | 05/21/99 | \$8,774,197.29 | 9.00  | \$798,750.55   | 9.10%   | \$766,528.49   | 8.74%   |
| ROBERTSON CONTRACTORS                             | 02/19/99 | \$2,152,896.24 | 10.00 | \$235,435.58   | 10.94%  | \$233,270.39   | 10.84%  |
| SIRARDEAU CONTRACTORS                             | 12/02/98 | \$3,158,387.96 | 10.00 | \$386,113.35   | 12.23%  | \$760,233.67   | 24.07%  |
| SIRARDEAU CONTRACTORS                             | 03/19/99 | \$3,440,646.27 | 10.00 | \$353,269.38   | 10.27%  | \$384,963.38   | 11.19%  |
| SIRARDEAU CONTRACTORS                             | 03/19/99 | \$165,339.85   | 10.00 | \$16,570.10    | 10.02%  | \$16,570.10    | 10.02%  |
| CHESTER BROSS CONST/CB EQUIP INC                  | 08/20/99 | \$5,797,324.94 | 4.00  | \$252,888.86   | 4.36%   | \$484,786.56   | 8.36%   |
| HILLSIDE GARDENS                                  | 01/22/99 | \$28,801.00    | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%   |
| IR QUADRI CONSTRUCTION                            | 05/21/99 | \$742,504.99   | 10.00 | \$94,126.63    | 12.68%  | \$107,478.06   | 14.48%  |
| PACE CONSTRUCTION COMPANY                         | 06/18/99 | \$2,476,158.78 | 10.00 | \$250,097.05   | 10.10%  | \$251,166.02   | 10.14%  |
| REALM CONSTRUCTION INC                            | 03/19/99 | \$834,044.29   | 10.00 | \$493,466.50   | 59.17%  | \$0.00         | 0.00%   |
| PAVEMENT SPECIALISTS INC                          | 03/19/99 | \$660,041.57   | 10.00 | \$75,818.43    | 11.49%  | \$75,818.43    | 11.49%  |
| ST JOSEPH FUEL OIL & MFG                          | 03/19/99 | \$990,568.69   | 10.00 | \$110,253.40   | 11.13%  | \$120,976.65   | 12.21%  |
| CHESTER BROSS CONST/CB EQUIP INC                  | 02/19/99 | \$7,943,347.33 | 10.00 | \$838,964.97   | 10.56%  | \$806,450.12   | 10.15%  |
| DEKER INC   | 12/02/98 | \$2,609,110.10 | 10.00 | \$260,911.01   | 10.00%  | \$260,911.01   | 10.00%  |
| MISSOURI BRIDGE & CONCRETE                        | 03/19/99 | \$2,988,778.19 | 9.00  | \$271,476.12   | 9.08%   | \$260,766.56   | 8.72%   |
| LOCH SAND & CONSTRUCTION                          | 02/19/99 | \$3,796,183.46 | 10.00 | \$381,881.40   | 10.06%  | \$363,100.29   | 9.56%   |
| DEKER INC   | 07/23/99 | \$7,705,854.02 | 9.00  | \$693,526.86   | 9.00%   | \$681,741.00   | 8.85%   |
| HARDYS INC  | 01/22/99 | \$1,337,298.80 | 10.00 | \$133,985.00   | 10.02%  | \$134,541.60   | 10.06%  |
| BESTGEN INC                                       | 03/19/99 | \$254,226.07   | 10.00 | \$30,430.34    | 11.97%  | \$53,207.02    | 20.93%  |
| COLUMBIA CURB & GUTTER                            | 02/19/99 | \$1,812,365.21 | 10.00 | \$1,812,365.21 | 100.00% | \$1,812,365.21 | 100.00% |
| CHESTER BROSS CONST/CB EQUIP INC                  | 02/19/99 | \$4,545,223.98 | 10.00 | \$489,937.48   | 10.78%  | \$1,059,273.68 | 23.31%  |
| EMERY SAPP & SONS                                 | 02/19/99 | \$2,129,696.59 | 10.00 | \$213,256.44   | 10.01%  | \$207,815.28   | 9.76%   |
| HOWARD CONSTRUCTION                               | 10/23/98 | \$7,643,824.52 | 8.00  | \$612,505.42   | 8.01%   | \$741,142.16   | 9.70%   |
| OSAGE CONSTRUCTORS INC                            | 02/19/99 | \$3,216,805.00 | 8.00  | \$257,391.00   | 8.00%   | \$224,858.25   | 6.99%   |
| HALL & RILEY QUARRIES & CONST/HALL & RILEY PAVING | 02/19/99 | \$748,742.66   | 6.00  | \$100,135.51   | 13.37%  | \$106,609.51   | 14.24%  |
| PAC MISSOURI RICHARDSON BASS                      | 03/19/99 | \$1,888,437.68 | 4.00  | \$75,537.51    | 4.00%   | \$75,537.51    | 4.00%   |
| PACE CONSTRUCTION COMPANY                         | 02/19/99 | \$2,136,871.95 | 10.00 | \$229,015.54   | 10.72%  | \$502,918.45   | 23.54%  |
| VL MILLER COMPANY                                 | 03/19/99 | \$327,276.97   | 10.00 | \$33,530.63    | 10.25%  | \$8,531.55     | 2.61%   |
| HARDYS INC  | 06/18/99 | \$2,391,201.23 | 10.00 | \$242,277.40   | 10.13%  | \$261,108.06   | 10.92%  |
| HALL & RILEY PAVING CO                            | 03/19/99 | \$737,980.42   | 10.00 | \$80,700.00    | 10.94%  | \$94,574.60    | 12.82%  |
| MID RIVER ASPHALT                                 | 06/18/99 | \$1,700,452.17 | 8.00  | \$123,147.83   | 7.24%   | \$123,317.09   | 7.25%   |

|   |          |                |       |              |        |              |        |
|---|----------|----------------|-------|--------------|--------|--------------|--------|
| II VO CONSTRUCTION COMPANY                        | 02/19/99 | \$82,273.50    | 10.00 | \$10,632.00  | 12.92% | \$11,232.00  | 13.65% |
| EMERY SAPP & SONS                                 | 06/18/99 | \$710,540.57   | 9.00  | \$66,280.63  | 9.33%  | \$66,280.63  | 9.33%  |
| EDWARD KRAEMER & SONS                             | 10/23/98 | \$8,808,799.60 | 5.00  | \$502,373.31 | 5.70%  | \$641,046.28 | 7.28%  |
| CHESTER BROSS CONST/CB EQUIP INC                  | 05/21/99 | \$8,930,211.82 | 8.00  | \$714,553.45 | 8.00%  | \$734,291.95 | 8.22%  |
| HILTY QUARRIES                                    | 06/18/99 | \$8,329,920.14 | 7.00  | \$617,908.48 | 7.42%  | \$617,910.82 | 7.42%  |
| RADMACHER BROTHERS EXCAVATING                     | 04/23/99 | \$3,657,282.97 | 14.00 | \$541,422.03 | 14.80% | \$586,879.93 | 16.05% |
| MISSOURI BRIDGE & CONCRETE                        | 12/02/98 | \$559,658.62   | 10.00 | \$64,877.30  | 11.59% | \$64,877.30  | 11.59% |
| HALL & RILEY QUARRIES & CONST/HALL & RILEY PAVING | 02/19/99 | \$1,382,888.19 | 0.00  | \$0.00       | 0.00%  | \$3,920.00   | 0.28%  |
| CHESTER BROSS CONST/CB EQUIP INC                  | 04/23/99 | \$5,527,406.72 | 8.00  | \$446,758.85 | 8.08%  | \$501,228.09 | 9.07%  |
| REESEN INC  | 02/19/99 | \$3,447,862.87 | 10.00 | \$347,562.30 | 10.08% | \$72,696.19  | 2.11%  |
| ENSEN CONSTRUCTION COMPANY                        | 03/19/99 | \$8,243,834.33 | 9.00  | \$762,274.00 | 9.25%  | \$659,401.48 | 8.00%  |
| ENSEN CONSTRUCTION COMPANY                        | 06/18/99 | \$6,267,463.50 | 0.00  | \$0.00       | 0.00%  | \$0.00       | 0.00%  |
| PAC MISSOURI RICHARDSON BASS                      | 02/19/99 | \$1,413,330.13 | 10.00 | \$141,335.00 | 10.00% | \$330,412.22 | 23.38% |
| PAC MISSOURI CENTRAL COMPANIES DIV                | 02/19/99 | \$1,145,088.10 | 10.00 | \$114,198.00 | 9.97%  | \$113,627.80 | 9.92%  |
| REESEN INC  | 03/19/99 | \$3,049,882.27 | 10.00 | \$295,006.28 | 9.67%  | \$309,458.22 | 10.15% |
| H BERRA CONSTRUCTION                              | 06/18/99 | \$8,767,000.00 | 10.00 | \$903,278.81 | 10.30% | \$956,014.43 | 10.90% |
| H BERRA CONSTRUCTION                              | 03/19/99 | \$2,944,000.00 | 10.00 | \$300,808.15 | 10.22% | \$309,218.65 | 10.50% |
| SIERRA BRAVO INC                                  | 12/02/98 | \$3,042,692.00 | 10.00 | \$305,933.27 | 10.05% | \$260,840.11 | 8.57%  |
| HOWARD CONSTRUCTION                               | 08/20/99 | \$9,500,947.56 | 6.00  | \$570,856.72 | 6.01%  | \$717,467.52 | 7.55%  |
| IEBROCK CONSTRUCTION & EQUIPMENT                  | 10/23/98 | \$540,446.55   | 11.00 | \$59,971.96  | 11.10% | \$59,971.96  | 11.10% |
| ACE CONSTRUCTION COMPANY                          | 10/23/98 | \$4,409,905.10 | 11.00 | \$632,000.00 | 14.33% | \$999,744.45 | 22.67% |
| PAC MISSOURI MASTERS JACKSON                      | 02/19/99 | \$2,725,063.18 | 10.00 | \$333,603.64 | 12.24% | \$333,326.53 | 12.23% |
| PAC MISSOURI CENTRAL COMPANIES DIV                | 12/02/98 | \$478,670.37   | 7.00  | \$48,268.22  | 10.08% | \$15,761.00  | 3.29%  |
| PAC MISSOURI CENTRAL COMPANIES DIV                | 12/02/98 | \$4,300,522.28 | 8.00  | \$344,191.50 | 8.00%  | \$315,572.66 | 7.34%  |
| NYDER BRIDGE COMPANY                              | 10/23/98 | \$7,615,132.63 | 11.00 | \$872,001.80 | 11.45% | \$872,572.86 | 11.46% |
| AVE KOLB GRADING                                  | 02/19/99 | \$6,496,489.48 | 10.00 | \$649,649.00 | 10.00% | \$684,548.06 | 10.54% |
| REESEN INC  | 04/23/99 | \$5,729,255.53 | 10.00 | \$586,434.86 | 10.24% | \$618,582.86 | 10.80% |
| VA ELLIS CONSTRUCTION                             | 01/22/99 | \$8,920,695.60 | 9.00  | \$802,863.76 | 9.00%  | \$788,309.47 | 8.84%  |
| PAC MISSOURI MASTERS JACKSON                      | 09/17/99 | \$6,574,200.38 | 12.00 | \$788,928.00 | 12.00% | \$788,926.40 | 12.00% |
| MORRISON KNUDSEN COMPANY                          | 06/18/99 | \$5,865,000.00 | 2.00  | \$124,950.50 | 2.13%  | \$141,645.50 | 2.42%  |
| VA ELLIS CONSTRUCTION                             | 03/19/99 | \$3,070,357.85 | 10.00 | \$307,037.50 | 10.00% | \$323,597.50 | 10.54% |
| PAC MISSOURI INC                                  | 01/22/99 | \$4,895,130.12 | 10.00 | \$494,855.25 | 10.11% | \$587,606.80 | 12.00% |
| OHN BURK CONSTRUCTION                             | 05/21/99 | \$784,327.50   | 10.00 | \$81,007.52  | 10.33% | \$84,562.48  | 10.78% |
| VEST PLAINS BRIDGE & GRADING                      | 07/23/99 | \$513,959.09   | 5.00  | \$30,225.52  | 5.88%  | \$30,225.53  | 5.88%  |

|                                 |          |                  |       |              |        |                |        |
|---------------------------------|----------|------------------|-------|--------------|--------|----------------|--------|
| AMES H DREW CORP                | 05/21/99 | \$630,844.34     | 0.00  | \$0.00       | 0.00%  | \$37,664.88    | 5.97%  |
| ST LOUIS BRIDGE                 | 10/23/98 | \$2,211,847.97   | 12.00 | \$265,421.76 | 12.00% | \$338,249.97   | 15.29% |
| ION SCHNIEDERS EXCAVATING       | 04/23/99 | \$2,768,027.31   | 10.00 | \$276,823.72 | 10.00% | \$273,429.72   | 9.88%  |
| H BERRA CONSTRUCTION            | 06/18/99 | \$4,638,000.00   | 10.00 | \$465,131.88 | 10.03% | \$463,950.53   | 10.00% |
| HOWARD CONSTRUCTION             | 03/19/99 | \$12,191,928.36  | 8.00  | \$388,835.00 | 3.19%  | \$1,421,947.27 | 11.66% |
| HESTER BROSS CONST/CB EQUIP INC | 05/21/99 | \$7,658,563.35   | 8.00  | \$612,719.70 | 8.00%  | \$627,620.45   | 8.20%  |
| ION SCHNIEDERS EXCAVATING       | 01/22/99 | \$3,585,272.93   | 10.00 | \$297,327.29 | 8.29%  | \$231,376.74   | 6.45%  |
|                                 | 73       | \$268,885,625.02 |       |              |        |                |        |

# State Funded Projects FY2000

Attachment 12

| COUNTY           | JOB      | CONTRACTOR                           | DATE LET | CONTRACT       |
|------------------|----------|--------------------------------------|----------|----------------|
| BUCHANAN         | J1M0013  | PROGRESSIVE CONTRACTORS INC          | 10/22/99 | \$272,968.65   |
| LIVINGSTON       | J2M0006  | MILL VALLEY CONSTRUCTION INC         | 10/22/99 | \$320,901.20   |
| PUTNAM/ADAIR     | J2L0001A | APAC MISSOURI RICHARDSON BASS        | 10/22/99 | \$850,474.94   |
| SULLIVAN         | J2L0002A | RA KNAPP CONSTRUCTION                | 10/22/99 | \$514,267.00   |
| MACON/CHARITON   | J2L0003A | APAC MISSOURI RICHARDSON BASS        | 10/22/99 | \$381,195.82   |
| CHARITON         | J2L0004A | CHESTER BROSS CONST/CB EQUIPMENT INC | 10/22/99 | \$560,440.33   |
| SCOTLAND/CLARK   | J3L0005A | CHESTER BROSS CONST/CB EQUIP INC     | 10/22/99 | \$1,849,750.45 |
| PLATTE           | J4U1292  | THOMAS INDUSTRIAL COATINGS           | 10/22/99 | \$0.00         |
| ST CHARLES       | J6X1341G | GERSTNER ELECTRIC INC                | 10/22/99 | \$34,553.00    |
| BARTON           | J7L0006A | APAC MISSOURI MASTERS JACKSON        | 10/22/99 | \$141,837.45   |
| POLK/GREENE      | J8L0009A | LEO JOURNAGAN CONSTRUCTION           | 10/22/99 | \$479,992.39   |
| DALLAS/LACLEDE   | J8L0010A | APAC MISSOURI MASTERS JACKSON        | 10/22/99 | \$501,229.96   |
| TEXAS            | J9L0011A | OZARK ASPHALT COMPANY                | 10/22/99 | \$416,998.56   |
| IRON             | J9L0012A | LEAD BELT MATERIALS CO               | 10/22/99 | \$110,105.15   |
| RANDOLPH         | J2L0013A | WL MILLER COMPANY                    | 12/10/99 | \$479,530.64   |
| MARION           | J3U0269E | JAMES H DREW CORP                    | 12/10/99 | \$113,507.06   |
| PIKE             | J3M0013  | G & M CONCRETE & ASPHALT CO          | 12/10/99 | \$297,914.73   |
| ST CLAIR         | J7P0428F | ILLINOIS VALLEY PAVING               | 12/10/99 | \$5,372,940.42 |
| CLAY/PLATTE      | J4L0014A | SUPERIOR BOWEN ASPHALT               | 12/10/99 | \$671,065.17   |
| MILLER           | J5L0017A | APAC MISSOURI RICHARDSON BASS        | 12/10/99 | \$490,548.24   |
| ST LOUIS         | J6X1350F | RV WAGNER INC                        | 12/10/99 | \$108,985.90   |
| LAWRENCE         | J7L0022A | LEO JOURNAGAN CONSTRUCTION           | 12/10/99 | \$0.00         |
| NEWTON           | J7L0021A | HECKERT CONSTRUCTION                 | 12/10/99 | \$917,492.78   |
| CHRISTIAN        | J8M0016  | LEO JOURNAGAN CONSTRUCTION           | 12/10/99 | \$355,191.93   |
| CHRITIAN/DOUGLAS | J8M0022  | BLEVINS ASPHALT CONSTRUCTION         | 12/10/99 | \$141,060.32   |
| VARIOUS          | J8M0032  | BRANCO ENTERPRISES                   | 12/10/99 | \$115,842.00   |
| WASHINGTON       | J9M0013  | STEWART BROS                         | 12/10/99 | \$484,902.60   |
| STE GENEVIEVE    | J0L0023A | LEAD BELT MATERIALS                  | 12/10/99 | \$598,797.86   |
| DUNKLIN          | J0L0025A | GIRARDEAU CONTRACTORS                | 12/10/99 | \$921,974.18   |
| DUNKLIN          | J0S0784  | GIRARDEAU CONTRACTORS                | 12/10/99 | \$0.00         |
| SCOTT            | J0L0024A | GIRARDEAU CONTRACTORS                | 12/10/99 | \$500,937.02   |
| ANDREW/BUCHANAN  | J1L0027A | HERZOG CONTRACTING                   | 01/21/00 | \$1,110,448.20 |
| CLAY/CLINTON     | J1L0028A | APAC MISSOURI RICHARDSON BASS        | 01/21/00 | \$730,507.11   |

|                        |          |  |          |                |
|------------------------|----------|--|----------|----------------|
| GENTRY/HARRISON        | J1L0026A | APAC MISSOURI RICHARDSON BASS                        | 01/21/00 | \$887,709.61   |
| HOWARD                 | J2L0030A | HALL & RILEY QUARRIES/HALL & RILEY PAVING            | 01/21/00 | \$490,020.56   |
| LINN/MACON/MERCER/PUTN | J2M0007  | OCCI INC   | 01/21/00 | \$318,436.00   |
| BENTON                 | J5L0031A | HILTY QUARRIES                                       | 01/21/00 | \$324,983.77   |
| PETTIS                 | J5L0029A | WEST CENTRAL CONTRACTORS                             | 01/21/00 | \$330,537.47   |
| MARIES                 | J5L0032A | JEFFERSON ASPHALT                                    | 01/21/00 | \$669,205.97   |
| COOPER                 | J5M0016  | GREIS TRUCKING & EXCAVATING                          | 01/21/00 | \$136,811.70   |
| OSAGE                  | J5L0033A | JEFFERSON ASPHALT                                    | 01/21/00 | \$560,000.67   |
| JEFFERSON              | J6P1361  | RV WAGNER INC  | 01/21/00 | \$196,048.20   |
| VARIOUS                | J6M0026  | COLLINS & HERMANN                                    | 01/21/00 | \$728,728.28   |
| VARIOUS                | J6M0027  | D & S FENCING  | 01/21/00 | \$172,425.00   |
| VARIOUS                | J6M0028  | COLLINS & HERMANN                                    | 01/21/00 | \$360,360.36   |
| FRANKLIN               | J6C0003  | PACE CONSTRUCTION                                    | 01/21/00 | \$752,421.60   |
| FRANKLIN               | J6X1350G | PACE CONSTRUCTION                                    | 01/21/00 | \$0.00         |
| CASS                   | J4L0018A | WEST CENTRAL CONTRACTORS                             | 01/21/00 | \$404,872.77   |
| WRIGHT                 | J8L0036A | LEO JOURNAGAN CONSTRUCTION                           | 01/21/00 | \$738,163.92   |
| HICKORY/POLK           | J8L0008B | HILTY QUARRIES                                       | 01/21/00 | \$351,768.42   |
| CHRISTIAN              | J8L0035A | LEO JOURNAGAN CONSTR UCTION                          | 01/21/00 | \$157,209.94   |
| FRANKLIN               | J6L0034A | LEAD BELT MATERIALS                                  | 01/21/00 | \$531,407.05   |
| PERRY                  | J0L0038A | GIRARDEAU CONTRACTORS                                | 01/21/00 | \$811,893.48   |
| DUNKLIN                | J0L0039A | GIRARDEAU CONTRACTORS                                | 01/21/00 | \$560,620.59   |
| WARREN                 | J3P0514  | STEVE & ASSOCIATES                                   | 02/18/00 | \$390,223.17   |
| JACKSON                | J4M0053  | REALM CONSTRUCTION                                   | 02/18/00 | \$1,193,685.80 |
| JACKSON                | J4X1297  | INDUSTRIAL EXCAVATING & EQUIPMENT INC                | 02/18/00 | \$0.00         |
| PETTIS                 | J5M0013  | JC INDUSTRIES INC                                    | 02/18/00 | \$217,772.62   |
| PULASKI                | J9M0014  | D & S FENCING CO                                     | 02/18/00 | \$89,639.00    |
| BUTLER/NEW MADRID      | J0M0009  | SLCB INC   | 02/18/00 | \$116,175.00   |
| CAPE GIRARDEAU         | J0M0010  | SLBC INC   | 02/18/00 | \$99,080.00    |
| BOONE                  | J5L0015A | APAC MISSOURI  | 02/18/00 | \$583,019.71   |
| MONITEAU               | J5L0016A | HALL & RILEY QUARRIES & CONST/HALL &<br>RILEY PAVING | 02/18/00 | \$2,558,190.95 |
| AUDRAIN                | J3P0601  | JAMES H DREW COPRORATION                             | 03/17/00 | \$89,092.34    |
| WARREN                 | J3I0605  | GERSTNER ELECTRIC INC                                | 03/17/00 | \$78,624.00    |
| JACKSON                | J4P1353  | LEAVENWORTH EXC & EQUIP/JULIUS KAAZ<br>CONST         | 03/17/00 | \$332,994.11   |
| ST LOUIS               | J6X1341F | LF KRUPP CONST                                       | 03/17/00 | \$39,771.66    |
| JEFFERSON              | J6S1439  | VANCE BROTHERS INC                                   | 03/17/00 | \$164,454.26   |
| CAPE GIRARDEAU         | J0S0782  | PENZEL CONSTRUCTION COMPANY                          | 03/17/00 | \$2,503,872.37 |

|                         |          |                                   |          |                |
|-------------------------|----------|-----------------------------------|----------|----------------|
| DAVISS                  | J1L0049A | APAC MISSOURI INC                 | 04/21/00 | \$132,772.70   |
| ADAIR                   | J2L0040A | WL MILLER COMPANY                 | 04/21/00 | \$397,178.01   |
| LIVINGSTON              | J2L0041A | PARIS ASPHALT COMPANY             | 04/21/00 | \$344,256.80   |
| MONTGOMERY              | J3P0609  | LF KRUPP CONSTRUCTION             | 04/21/00 | \$339,605.45   |
| JOHNSON                 | J4M0089  | TASCO CONSTRUCTION                | 04/21/00 | \$70,581.55    |
| JOHNSON/LAFAYETTE       | J4L0043A | APAC MISSOURI INC                 | 04/21/00 | \$475,946.60   |
| CASS/CLAY/JACKSON/LAFA' | J4M0097  | SUPERIOR RAIL SYSTEM LLC          | 04/21/00 | \$478,324.42   |
| CLAY/JACKSON/LAFAYETTE  | J4M0098  | SUPERIOR RAIL SYSTEM LLC          | 04/21/00 | \$274,627.86   |
| SALINE                  | J2M0008  | TRAFFIC CONTROL COMPANY           | 04/21/00 | \$308,137.78   |
| BOONE/CALLAWAY          | J5M0020  | VANCE BROTHERS                    | 04/21/00 | \$500,281.36   |
| BOONE                   | J5M0009  | DON SCHNIEDERS EXCAVATING COMPANY | 04/21/00 | \$321,096.03   |
| ST LOUIS                | J6S1424  | TGB INC                           | 04/21/00 | \$589,369.00   |
| MONTGOMERY/WARREN       | J3M0018  | ATK SAFETY SUPPLY INC             | 04/21/00 | \$134,026.32   |
| ST CHARLES/ST LOUIS     | J6M0039  | ATK SAFETY SUPPLY                 | 04/21/00 | \$0.00         |
| JEFFERSON               | J6S1351B | LF KRUPP CONSTRUCTION             | 04/21/00 | \$362,693.07   |
| JEFFERSON               | J6X1342C | LF KRUPP CONSTRUCTION             | 04/21/00 | \$0.00         |
| BATES                   | J7L0044A | APAC MISSOURI INC                 | 04/21/00 | \$472,316.94   |
| VERNON                  | J7L0007A | APAC MISSOURI MASTERS JACSKON     | 04/21/00 | \$718,341.27   |
| ST CLAIR                | J7L0008A | APAC MISSOURI INC                 | 04/21/00 | \$671,071.83   |
| STONE                   | J8L0045C | APAC MISSOURI MASTERS JACKSON     | 04/21/00 | \$131,128.51   |
| RIPLEY                  | J9L0048A | PACE CONSTRUCTION                 | 04/21/00 | \$379,085.05   |
| DOUGLAS/WRIGHT          | J8L0047A | APAC MISSOURI INC                 | 04/21/00 | \$403,594.04   |
| PULASKI                 | J9L0047b | APAC MISSOURI INC                 | 04/21/00 | \$151,483.05   |
| ST LOUIS                | J6I1220H | AHRENS CONTRACTING INC            | 04/21/00 | \$688,150.00   |
| DAVISS                  | J1L0049A | APAC MISSOURI INC                 | 04/21/00 | \$132,772.70   |
| ADAIR                   | J2L0040A | WL MILLER COMPANY                 | 04/21/00 | \$397,178.01   |
| LIVINGSTON              | J2L0041A | PARIS ASPHALT COMPANY             | 04/21/00 | \$344,256.80   |
| PUTNAM                  | J2P0397  | WL MILLER COMPANY                 | 04/21/00 | \$363,277.30   |
| MONTGOMERY              | J3P0609  | LF KRUPP CONSTRUCTION             | 04/21/00 | \$339,605.45   |
| MARION                  | J3P0413B | APAC MISSOURI INC                 | 04/21/00 | \$5,552,982.71 |
| MONTGOMERY              | J3P0484  | SIERRA BRAVO INC                  | 04/21/00 | \$1,380,576.19 |
| JACKSON                 | J4U0958  | PYRAMID CONTRACTORS INC           | 04/21/00 | \$1,967,767.49 |
| JOHNSON                 | J4M0089  | TASCO CONSTRUCTION                | 04/21/00 | \$70,581.55    |
| CLAY                    | J4U1097  | LG BARCUS & SONS INC              | 04/21/00 | \$1,086,135.40 |
| JOHNSON/LAFAYETTE       | J4L0043A | APAC MISSOURI INC                 | 04/21/00 | \$475,946.60   |
| CASS/CLAY/JACKSON/LAFA' | J4M0097  | SUPERIOR RAIL SYSTEM LLC          | 04/21/00 | \$478,324.42   |
| CLAY/JACKSON/LAFAYETTE  | J4M0098  | SUPERIOR RAIL SYSTEM LLC          | 04/21/00 | \$274,627.86   |
| SALINE                  | J2M0008  | TRAFFIC CONTROL COMPANY           | 04/21/00 | \$308,137.78   |

|                     |          |                                   |          |                 |
|---------------------|----------|-----------------------------------|----------|-----------------|
| BOONE/CALLAWAY      | J5M0020  | VANCE BROTHERS                    | 04/21/00 | \$500,281.36    |
| BOONE               | J5M0009  | DON SCHNIEDERS EXCAVATING COMPANY | 04/21/00 | \$321,096.03    |
| ST LOUIS            | J6S1424  | TGB INC                           | 04/21/00 | \$589,369.00    |
| MONTGOMERY/WARREN   | J3M0018  | ATK SAFETY SUPPLY INC             | 04/21/00 | \$134,026.32    |
| ST CHARLES/ST LOUIS | J6M0039  | ATK SAFETY SUPPLY                 | 04/21/00 | \$0.00          |
| JEFFERSON           | J6S1351B | LF KRUPP CONSTRUCTION             | 04/21/00 | \$362,693.07    |
| JEFFERSON           | J6X1342C | LF KRUPP CONSTRUCTION             | 04/21/00 | \$0.00          |
| JEFFERSON           | J6S0770  | GERSHENSON CONSTRUCTION           | 04/21/00 | \$3,758,404.65  |
| JEFFERSON           | J6P0876C | JH BERRA CONSTRUCTION             | 04/21/00 | \$17,841,000.00 |
| JASPER/NEWTON       | J7S0698  | SPROULS CONSTRUCTION INC          | 04/21/00 | \$493,091.10    |
| BATES               | J7L0044A | APAC MISSOURI INC                 | 04/21/00 | \$472,316.94    |
| VERNON              | J7L0007A | APAC MISSOURI MASTERS JACSKON     | 04/21/00 | \$718,341.27    |
| ST CLAIR            | J7L0008A | APAC MISSOURI INC                 | 04/21/00 | \$671,071.83    |
| STONE               | J8L0045C | APAC MISSOURI MASTERS JACKSON     | 04/21/00 | \$131,128.51    |
| STONE               | J8P0452C | DAVE KOLB GRADING INC             | 04/21/00 | \$2,825,982.47  |
| DOUGLAS             | J8O0001  | BURK BRIDGE COMPANY               | 04/21/00 | \$397,686.80    |
| RIPLEY              | J9L0048A | PACE CONSTRUCTION                 | 04/21/00 | \$379,085.05    |
| DOUGLAS/WRIGHT      | J8L0047A | APAC MISSOURI INC                 | 04/21/00 | \$403,594.04    |
| PULASKI             | J9L0046C | APAC MISSOURI INC                 | 04/21/00 | \$151,483.05    |
| CAPE GIRARDEAU      | J0S0786  | PENZEL CONSTRUCTION COMPANY       | 04/21/00 | \$1,009,399.81  |
| ST LOUIS            | J6I1220H | AHRENS CONTRACTING INC            | 04/21/00 | \$688,150.00    |
| ATCHISON            | J1M0028  | ROYAL BRIDGE INC                  | 05/19/00 | \$526,600.00    |
| NODAWAY             | J1P0641C | LOCH SAND & CONSTRUCTION          | 05/19/00 | \$38,638.00     |
| JACKSON             | J4I1485  | COMANCHE CONSTRUCTION INC         | 05/19/00 | \$195,123.14    |
| LAFAYETTE/RAY       | J4P11020 | PREMIER DEMOLITION INC            | 05/19/00 | \$85,255.20     |
| PETTIS              | J5M0022  | JAMES H DREW CORP                 | 05/19/00 | \$82,902.55     |
| COLE                | J5M0017  | VANCE BROTHERS INC                | 05/19/00 | \$106,101.39    |
| BENTON/PETTIS       | J5M0018  | VANCE BROTHERS INC                | 05/19/00 | \$83,959.40     |
| ST LOUIS            | J6S1351C | GERSTNER ELECTRIC                 | 05/19/00 | \$173,291.00    |
| ST LOUIS            | J6X1340D | GERSTNER ELECTRIC                 | 05/19/00 | \$96,620.00     |
| FRANKLIN            | J6X1341E | NB WEST CONTRACTING COMPANY       | 05/19/00 | \$592,906.04    |
| ST LOUIS            | J6I1373  | GERSHENSON CONSTRUCTION COMPANY   | 05/19/00 | \$69,168.00     |
| FRANKLIN            | J6S1311  | LF KRUPP CONSTRUCTION             | 05/19/00 | \$303,602.00    |
| ST CHARLES/ST LOUIS | J6M0040  | THOMAS INDUSTRIAL COATINGS        | 05/19/00 | \$420,000.00    |
| ST LOUIS CITY       | J6X1350C | RV WAGNER INC                     | 05/19/00 | \$46,289.80     |
| GREENE              | J8M0035  | LEO JOURNAGAN CONSTRUCTION        | 05/19/00 | \$49,691.91     |
| GREENE              | J8M0038  | LEO JOURNAGAN CONSTRUCTION        | 05/19/00 | \$89,825.74     |
| HOWELL              | J9S0486  | STEWART BROS CONSTRUCTION         | 05/19/00 | \$180,395.00    |

|                     |          |                                    |          |                         |
|---------------------|----------|------------------------------------|----------|-------------------------|
| CRAWFORD            | J9M0016  | JEFFERSON ASPHALT COMPANY          | 05/19/00 | \$64,044.18             |
| CRAWFORD            | J9M0015  | VANCE BROTHERS INC                 | 05/19/00 | \$205,440.70            |
| ANDREW              | J1M0006  | BESTGEN INC                        | 06/16/00 | \$227,553.25            |
| BUCHANAN            | J1M0026  | REALM CONSTRUCTION INC             | 06/16/00 | \$253,913.00            |
| JACKSON             | J4I1306B | POLE LINE ELECTRICAL CONST         | 06/16/00 | \$177,351.15            |
| CLAY/LAFAYETTE/RAY  | J4M0096  | VANCE BROTHERS INC                 | 06/16/00 | \$200,298.99            |
| CLAY/JACKSON        | J4M0099  | HARTMAN WALSH PAINTING             | 06/16/00 | \$600,314.17            |
| PLATTE              | J4M0100  | TWIN TRAFFIC MARKING CORP          | 06/16/00 | \$165,021.90            |
| CALLAWAY            | J5M0011  | APAC MISSOURI INC                  | 06/16/00 | \$428,933.50            |
| PETTIS              | J5S0760  | APAC MISSOURI INC                  | 06/16/00 | \$336,958.07            |
| ST LOUIS            | J6S1454  | LF KRUPP CONSTRUCTION              | 06/16/00 | \$67,441.97             |
| JEFFERSON           | J6P1452  | GAINES CONSTRUCTION INC            | 06/16/00 | \$342,092.35            |
| ST LOUIS            | J6M0041  | GAINES CONSTRUCTION INC            | 06/16/00 | \$108,929.85            |
| ST CHARELS          | J6S1451  | SUNRISE CONSTRUCTION               | 06/16/00 | \$276,743.67            |
| ST CHARLES/ST LOUIS | J6M0042  | NB WEST CONTRACTING                | 06/16/00 | \$35,764.00             |
| FRANKLIN            | J6X1350B | SUNRISE CONSTRUCTION               | 06/16/00 | \$151,749.05            |
| GREENE              | J8M0034  | D FERGUSON CONSTRUCTION            | 06/16/00 | \$29,808.00             |
| GREENE/CHRISTIAN    | J8M0036  | JLA CONSTRUCTION                   | 06/16/00 | \$498,452.15            |
| PULASKI             | J9P0489  | APAC MISSOURI INC                  | 06/16/00 | \$82,873.49             |
| IRON                | J9M0017  | BLEVINS ASPHALT CONSTRUCTION       | 06/16/00 | \$492,599.50            |
| PHELPS/PULASKI      | J9M0019  | CHESTER BROSS CONST/CB EQUIP       | 06/16/00 | \$497,323.10            |
| ST LOUIS            | J6L0020A | FRED WEBER                         | 06/16/00 | \$225,244.52            |
| FRANKLIN            | J6L0040A | NB WEST CONTRACTING                | 06/16/00 | \$928,525.52            |
| SALINE              | J2I0678  | ST JOSEPH FUEL OIL & MANUFACTURING | 07/21/00 | \$396,917.98            |
| MONTGOMERY          | J3I0642  | D & S FENCING COMPANY              | 07/21/00 | \$297,179.10            |
| COOPER              | J5M0023  | REALM CONSTRUCTION INC             | 07/21/00 | \$186,588.00            |
| JEFFERSON           | J6I0625D | D & S WRECKING COMPANY             | 07/21/00 | \$224,309.60            |
| WARREN              | J3I0628  | GERSTNER ELECTRIC                  | 08/18/00 | \$88,811.80             |
| COLE                | J5C0006  | ACORN INDUSTRIES                   | 08/18/00 | \$9,484.50              |
| ST LOUIS            | J6P1290  | LF KRUPP CONSTRUCTION              | 08/18/00 | \$41,201.59             |
| SHELBY              | J3P0409D | A & D CONSTRUCTION INC             | 09/15/00 | \$236,102.83            |
| MONTGOMERY/WARREN   | J3M0020  | JAMES H DREW CORPORATION           | 09/15/00 | \$79,493.92             |
| ST LOUIS            | J6S1447  | FRED WEBER INC                     | 09/15/00 | \$402,122.03            |
|                     |          |                                    |          | <u>\$102,650,977.21</u> |



**Race Neutral Participation  
Fiscal Year 2000  
State Funded Projects**

Attachment 12-A

| COUNTY                       | JOB_NO   | CONTRACTOR                                   | DATE LET | CONTRACT PRICE | \$ SUB 1     | \$ SUB 2    | \$ SUB 3    | \$ SUB 4     |
|------------------------------|----------|--|----------|----------------|--------------|-------------|-------------|--------------|
| PLATTE                       | J4U1292  | THOMAS INDUSTRIAL COATINGS                   | 10/22/99 | \$0.00         | \$38,336.25  | \$5,850.00  | \$80,000.00 |              |
| CHRISTIAN                    | J8M0016  | LEO JOURNAGAN CONSTRUCTION                   | 12/10/99 | \$355,191.93   | \$5,421.60   |             |             |              |
| VASHINGTON                   | J9M0013  | STEWART BROS                                 | 12/10/99 | \$484,902.60   | \$10,742.50  | \$18,318.50 |             |              |
| JUNKLIN                      | J0S0784  | GIRARDEAU CONTRACTORS                        | 12/10/99 | \$0.00         | \$14,814.00  | \$17,213.50 |             |              |
| WINN/MACON/<br>MERCER/PUTNAM | J2M0007  | OCCI INC                                     | 01/21/00 | \$318,436.00   | \$15,000.00  |             |             |              |
| FRANKLIN                     | J6C0003  | PACE CONSTRUCTION                            | 01/21/00 | \$752,421.60   | \$32,228.50  |             |             |              |
| FRANKLIN                     | J6L0034A | LEAD BELT MATERIALS                          | 01/21/00 | \$531,407.05   | \$11,065.60  |             |             |              |
| VARREN                       | J3P0514  | STEVE & ASSOCIATES                           | 02/18/00 | \$390,223.17   | \$14,171.71  |             |             |              |
| JACKSON                      | J4P1353  | LEAVENWORTH EXC & EQUIP/JULIUS<br>KAAZ CONST | 03/17/00 | \$332,994.11   | \$980.00     |             |             |              |
| ST LOUIS                     | J6X1341F | LF KRUPP CONST                               | 03/17/00 | \$39,771.66    | \$1,152.79   |             |             |              |
| JEFFERSON                    | J6S1439  | VANCE BROTHERS INC                           | 03/17/00 | \$164,454.26   | \$15,156.50  |             |             |              |
| CAPE GIRARDEAU               | J0S0782  | PENZEL CONSTRUCTION COMPANY                  | 03/17/00 | \$2,503,872.37 | \$6,616.60   | \$24,870.00 |             |              |
| BOONE                        | J5M0009  | DON SCHNIEDERS EXCAVATING<br>COMPANY         | 04/21/00 | \$321,096.03   | \$6,912.00   | \$7,760.00  | \$7,499.70  | \$7,097.50   |
| JEFFERSON                    | J6S1351B | LF KRUPP CONSTRUCTION                        | 04/21/00 | \$362,693.07   | \$6,810.41   | \$17,167.55 | \$8,460.00  |              |
| MARION                       | J3P0413B | APAC MISSOURI INC                            | 04/21/00 | \$5,552,982.71 | \$251,243.00 | \$74,911.50 | \$20,854.40 | \$106,578.81 |
| BENTON/PETTIS                | J5M0018  | VANCE BROTHERS INC                           | 05/19/00 | \$83,959.40    | \$3,565.76   |             |             |              |
| ST LOUIS                     | J6S1351C | GERSTNER ELECTRIC                            | 05/19/00 | \$173,291.00   | \$668.80     |             |             |              |
| ST LOUIS                     | J6X1340D | GERSTNER ELECTRIC                            | 05/19/00 | \$96,620.00    | \$450.00     |             |             |              |
| FRANKLIN                     | J6X1341E | NB WEST CONTRACTING COMPANY                  | 05/19/00 | \$592,906.04   | \$5,160.00   | \$3,750.00  | \$18,222.50 | \$11,312.50  |
| ST LOUIS                     | J6I1373  | GERSHENSON CONSTRUCTION<br>COMPANY           | 05/19/00 | \$69,168.00    | \$1,990.00   | \$1,650.00  |             |              |
| FRANKLIN                     | J6S1311  | LF KRUPP CONSTRUCTION                        | 05/19/00 | \$303,602.00   | \$14,282.60  |             |             |              |
| ST CHARLES/ST<br>LOUIS       | J6M0040  | THOMAS INDUSTRIAL COATINGS                   | 05/19/00 | \$420,000.00   | \$33,850.00  |             |             |              |
| ST LOUIS CITY                | J6X1350C | RV WAGNER INC                                | 05/19/00 | \$46,289.80    | \$5,456.00   |             |             |              |

|  |          |                              |          |                 |              |              |              |              |  |
|--|----------|------------------------------|----------|-----------------|--------------|--------------|--------------|--------------|--|
| GREENE                                   | J8M0035  | LEO JOURNAGAN CONSTRUCTION   | 05/19/00 | \$49,691.91     | \$3,258.00   | \$3,210.80   |              |              |  |
| GREENE                                   | J8M0038  | LEO JOURNAGAN CONSTRUCTION   | 05/19/00 | \$89,825.74     | \$2,831.00   |              |              |              |  |
| HOWELL                                   | J9S0486  | STEWART BROS CONSTRUCTION    | 05/19/00 | \$180,395.00    | \$7,995.00   | \$19,320.00  |              |              |  |
| DRAWFORD                                 | J9M0016  | JEFFERSON ASPHALT COMPANY    | 05/19/00 | \$64,044.18     | \$11,328.20  |              |              |              |  |
| ANDREW                                   | J1M0006  | BESTGEN INC                  | 06/16/00 | \$227,553.25    | \$4,986.00   |              |              |              |  |
| CALLAWAY                                 | J5M0011  | APAC MISSOURI INC            | 06/16/00 | \$428,933.50    | \$5,880.00   | \$7,913.65   |              |              |  |
| ST LOUIS                                 | J6S1454  | LF KRUPP CONSTRUCTION        | 06/16/00 | \$67,441.97     | \$1,648.30   | \$4,412.80   |              |              |  |
| JEFFERSON                                | J6P1452  | GAINES CONSTRUCTION INC      | 06/16/00 | \$342,092.35    | \$46,707.30  |              |              |              |  |
| ST CHARELS                               | J6S1451  | SUNRISE CONSTRUCTION         | 06/16/00 | \$276,743.67    | \$523.60     |              |              |              |  |
| PULASKI                                  | J9P0489  | APAC MISSOURI INC            | 06/16/00 | \$82,873.49     | \$1,800.00   |              |              |              |  |
| HELPS/PULASKI                            | J9M0019  | CHESTER BROSS CONST/CB EQUIP | 06/16/00 | \$497,323.10    | \$3,600.00   |              |              |              |  |
| ST LOUIS                                 | J6L0020A | FRED WEBER                   | 06/16/00 | \$225,244.52    | \$7,719.84   |              |              |              |  |
| FRANKLIN                                 | J6L0040A | NB WEST CONTRACTING          | 06/16/00 | \$928,525.52    | \$15,248.44  |              |              |              |  |
| FRANKLIN                                 | J6L0040A | NB WEST CONTRACTING          | 06/16/00 | \$928,525.52    | \$15,248.44  |              |              |              |  |
| JEFFERSON                                | J6I0625D | D & S WRECKING COMPANY       | 07/21/00 | \$224,309.60    | \$55,039.60  |              |              |              |  |
| ST LOUIS                                 | J6P1290  | LF KRUPP CONSTRUCTION        | 08/18/00 | \$41,201.59     | \$1,095.00   | \$2,062.50   |              |              |  |
| ST LOUIS                                 | J6S1447  | FRED WEBER INC               | 09/15/00 | \$402,122.03    | \$2,590.00   | \$4,220.00   |              |              |  |
|  |          |                              |          | <hr/>           |              |              |              |              |  |
|  |          |                              |          | \$18,024,604.22 | \$668,324.90 | \$212,630.80 | \$135,036.60 | \$124,988.81 |  |
| Total Race Neutral<br>State Let Projects |          |                              |          | \$1,140,981.11  |              |              |              |              |  |

# Federal Funded Projects FY2000

Attachment 13

| COUNTY          | JOB       | CONTRACTOR                                   | DATE LET | CONTRACT        |
|-----------------|-----------|--|----------|-----------------|
| RANDOLPH        | J2P0489   | CHESTER BROSS CONST/CB EQUIP INC             | 10/22/99 | \$13,362,313.59 |
| RANDOLPH        | J2U0488D  | CHESTER BROSS CONST/CB EQUIPMENT INC         | 10/22/99 | \$17,768,476.19 |
| MONTGOMERY      | J3I0581   | APAC MISSOURI                                | 10/22/99 | \$2,445,100.20  |
| LINCOLN         | J3P0603   | APAC MISSOURI                                | 10/22/99 | \$857,076.84    |
| RALLS/PIKE      | J3P0580   | CHESTER BROSS CONST/CB EQUIP INC             | 10/22/99 | \$2,277,498.05  |
| CLAY            | J4U0873   | THOMAS INDUSTRIAL COATINGS                   | 10/22/99 | \$3,833,265.00  |
| RAY             | J4S0960   | RADMACHER BROSTHERS EXCAVATING               | 10/22/99 | \$1,218,706.67  |
| JACKSON         | J4I1299   | SUPERIOR BOWEN ASPHALT                       | 10/22/99 | \$10,546,392.83 |
| COOPER          | J5P0257C  | HALL & RILEY QUARRIES/HALL & RILEY PAVING JV | 10/22/99 | \$101,425.35    |
| ST LOUIS        | J6U0774   | MILLSTONE BANGERT                            | 10/22/99 | \$4,347,189.89  |
| ST LOUIS        | J6I0617R  | GOODWIN BROTHERS CONSTRUCTION                | 10/22/99 | \$1,557,712.05  |
| ST LOUIS        | J6U0803B  | FRED WEBER                                   | 10/22/99 | \$6,814,238.33  |
| ST LOUIS        | J6U0685B  | BI STATE BRIDGE WORKS LLC                    | 10/22/99 | \$352,006.05    |
| NEWTON          | J7P0491   | JONES BROS                                   | 10/22/99 | \$16,277,922.37 |
| LACLEDE         | J8I0671B  | APAC MISSOURI                                | 10/22/99 | \$1,545,021.30  |
| CARTER          | J9P0483   | OCCI INC                                     | 10/22/99 | \$653,694.60    |
| BUTLER          | J0P0339   | JONES BROS                                   | 10/22/99 | \$11,900,795.91 |
| ANDREW          | J1P0627B  | ILLINOIS VALLEY PAVING                       | 12/10/99 | \$9,178,979.48  |
| CALDWELL/DEKALB | J1P0764   | APAC MISSOURI                                | 12/10/99 | \$3,694,039.56  |
| GRUNDY          | J2P0394   | EMERY SAPP & SONS                            | 12/10/99 | \$2,420,996.48  |
| SALINE          | J2I0631   | CHESTER BROSS CONST CO/CB EQUIPMENT          | 12/10/99 | \$8,642,419.68  |
| HENRY           | J4P0933F  | ILLINOIS VALLEY PAVING                       | 12/10/99 | \$14,411,970.68 |
| CLAY/JACKSON    | J4U1303D  | EDWARD KRAEMER & SONS                        | 12/10/99 | \$18,991,867.90 |
| CASS            | J4S0980   | EMERY SAPP & SONS                            | 12/10/99 | \$983,461.42    |
| JACKSON         | J4U0916   | MEGA INDUSTRIES CORP                         | 12/10/99 | \$2,718,511.79  |
| CASS            | J4X1321   | APAC MISSOURI INDEPENDENCE DIV               | 12/10/99 | \$83,042.34     |
| BOONE           | J5P041P8P | APAC MISSOURI RICHARDSON BASS                | 12/01/99 | \$5,089,869.34  |
| CALLAWAY        | J5P0703   | APAC MISSOURI RICHARDSON BASS                | 12/10/99 | \$2,551,136.22  |
| ST LOUIS        | J6S1425   | RV WAGNER INC                                | 12/10/99 | \$37,357.80     |
| JEFFERSON       | J6I1354   | CHESTER BROSS CONST CO/CB EQUIP              | 12/10/99 | \$7,276,743.74  |
| ST LOUIS        | J6I1303   | PACE CONSTRUCTION                            | 12/10/99 | \$13,992,845.84 |

|                |          |   |          |                 |
|----------------|----------|---|----------|-----------------|
| JASPER         | J7I0673  | APAC MISSOURI MASTERS JACKSON                     | 12/10/99 | \$3,050,765.96  |
| HOWARD         | J5P0134B | EMERY SAPP & SONS                                 | 01/21/00 | \$3,686,688.34  |
| JACKSON        | J4U1096B | CLARKSON CONSTRUCTION COMPANY                     | 01/21/00 | \$6,327,682.00  |
| CLAY           | J4P1329  | APAC MISSOURI INDEPENDENCE DIV                    | 01/21/00 | \$3,198,241.98  |
| CLAY           | J4S1110  | MISSOURI BRIDGE & CONCRETE                        | 01/21/00 | \$1,369,993.34  |
| ST CHARLES     | J6U0803G | FRED WEBER  | 01/21/00 | \$9,272,839.67  |
| ST CHARLES     | J6P0672H | FRED WEBER  | 01/21/00 | \$13,462,243.97 |
| ST CLAIR       | J7P0428D | JENSEN CONSTRUCTION COMPANY                       | 01/21/00 | \$4,395,827.90  |
| CARTER         | J9P0282D | JH BERRA CONSTRUCTION                             | 01/21/00 | \$6,573,000.00  |
| DENT           | J9P0291B | JEFFERSON ASPHALT COMPANY                         | 01/21/00 | \$2,133,713.06  |
| RIPLEY         | J9P0428  | ROBERTSON INC BRIDGE & GRADING DIV                | 01/21/00 | \$1,754,553.92  |
| CAPE GIRARDEAU | J0P0806  | HILLSIDE GARDENS                                  | 01/21/00 | \$52,206.00     |
| ST FRANCOIS    | J0P0679  | ROBERTSON INC BRIDGE & GRADING DIV                | 01/21/00 | \$1,101,594.58  |
| DUNKLIN        | J0S0620  | ROBERTSON INC BRIDGE & GRADING DIV                | 01/21/00 | \$584,185.11    |
| PEMISCOT       | J0P0600C | RL PERSONS CONSTRUCTION                           | 01/21/00 | \$2,944,357.44  |
| NODAWAY        | J1P0641B | LOCH SAND AND CONSTRUCTION                        | 02/18/00 | \$3,959,840.36  |
| CASS           | J4P1357  | CHESTER BROSS CONST CO/CB EQUIPMENT INC           | 02/18/00 | \$9,480,676.19  |
| JACKSON        | J4S0915  | INDUSTRIAL EXCAVATING & EQUIPMENT INC             | 02/18/00 | \$5,678,000.00  |
| COLE           | J5U0441M | JC INDUSTRIES INC                                 | 02/18/00 | \$1,287,782.28  |
| BOONE          | J5I0475  | APAC MISSOURI                                     | 02/18/00 | \$2,854,648.25  |
| JEFFERSON      | J6S0773  | GOODWIN BROS CONSTRUCTION                         | 02/18/00 | \$948,810.95    |
| ST LOUIS       | J6S1423  | GERSTNER ELECTRIC                                 | 02/18/00 | \$582,864.00    |
| ST LOUIS       | J6I0979  | SLBC INC  | 02/18/00 | \$12,276,415.25 |
| ST CHARLES     | J6S1241  | JH BERRA CONSTRUCTION                             | 02/18/00 | \$1,243,812.00  |
| CHRISTIAN      | J8S0459  | LEO JOURNAGAN CONSTRUCTION                        | 02/18/00 | \$353,987.59    |
| DOUGLAS        | J9S0290  | APAC MISSOURI                                     | 02/18/00 | \$469,841.69    |
| WEBSTER        | J8I0655  | LEO JOURNAGAN CONSTRUCTION                        | 02/18/00 | \$1,208,875.08  |
| CAPE GIRARDEAU | J0U0321G | TRAYLOR BROS                                      | 02/18/00 | \$53,766,177.00 |
| ST FRANCOIS    | J0P0592  | GOODWIN BROS CONSTRUCTION                         | 02/18/00 | \$5,495,445.38  |
| CAPE GIRARDEAU | J0U0616  | PENZEL CONSTRUCTION COMPANY                       | 02/18/00 | \$662,847.12    |
| MONITEAU       | J5P0759  | HALL & RILEY QUARRIES & CONST/HALL & RILEY PAVING | 02/18/00 | \$0.00          |
| CARROLL        | J2P0392  | EMERY SAPP & SONS                                 | 03/17/00 | \$684,188.62    |
| CARROLL        | J2S0393  | EMERY SAPP & SONS                                 | 03/17/00 | \$1,411,518.41  |
| MARION         | J3S0369  | HARRY H HOUF & SONS CONTRACTORS                   | 03/17/00 | \$773,572.24    |
| JACKSON        | J4I1498  | INDUSTRIAL EXCAVATING & EQUIPMENT                 | 03/17/00 | \$242,606.06    |
| CAMDEN         | J5P0347D | EMERY SAPP & SONS                                 | 03/17/00 | \$3,993,415.51  |
| ST LOUIS       | J6S1316B | VANCE BROTHERS INC                                | 03/17/00 | \$722,787.14    |

|                   |          |                                   |          |                 |
|-------------------|----------|-----------------------------------|----------|-----------------|
| ST LOUIS          | J6S1316  | VANCE BROTHERS INC                | 03/17/00 | \$821,476.40    |
| BARTON            | J7P0687  | APAC MISSOURI MASTERS JACKSON     | 03/17/00 | \$366,768.67    |
| NEWTON            | J7P0686  | APAC MISSOURI MASTERS JACKSON     | 03/17/00 | \$435,900.29    |
| TANEY             | J8P0609C | LEO JOURNAGAN CONSTRUCTION        | 03/17/00 | \$1,328,124.84  |
| GREENE/WEBSTER    | J8I0633  | APAC MISSOURI MASTERS JACKSON     | 03/17/00 | \$4,597,268.36  |
| HOWELL            | J9S0272  | HR QUADRI CONSTRUCTION            | 03/17/00 | \$2,060,650.02  |
| PUTNAM            | J2P0397  | WL MILLER COMPANY                 | 04/21/00 | \$363,277.30    |
| MARION            | J3P0413B | APAC MISSOURI INC                 | 04/21/00 | \$5,552,982.71  |
| MONTGOMERY        | J3P0484  | SIERRA BRAVO INC                  | 04/21/00 | \$1,380,576.19  |
| JACKSON           | J4U0958  | PYRAMID CONTRACTORS INC           | 04/21/00 | \$1,967,767.49  |
| CLAY              | J4U1097  | LG BARCUS & SONS INC              | 04/21/00 | \$1,086,135.40  |
| JEFFERSON         | J6S0770  | GERSHENSON CONSTRUCTION           | 04/21/00 | \$3,758,404.65  |
| JEFFERSON         | J6P0876C | JH BERRA CONSTRUCTION             | 04/21/00 | \$17,841,000.00 |
| JASPER/NEWTON     | J7S0698  | SPROULS CONSTRUCTION INC          | 04/21/00 | \$493,091.10    |
| STONE             | J8P0452C | DAVE KOLB GRADING INC             | 04/21/00 | \$2,825,982.47  |
| DOUGLAS           | J8O0001  | BURK BRIDGE COMPANY               | 04/21/00 | \$397,686.80    |
| CAPE GIRARDEAU    | J0S0786  | PENZEL CONSTRUCTION COMPANY       | 04/21/00 | \$1,009,399.81  |
| BUCHANAN          | J1U0629  | IDEKER INC                        | 05/19/00 | \$6,630,563.06  |
| AUDRAIN           | J3P0630  | APAC MISSOURI INC                 | 05/19/00 | \$947,071.22    |
| LAFAYETTE/RAY     | J4P1102C | EDWARD KRAEMER & SONS INC         | 05/19/00 | \$20,793,709.85 |
| CLAY              | J4S0109B | APAC MISSOURI INC                 | 05/19/00 | \$7,472,261.63  |
| CASS              | J4S1305  | INDUSTRIAL EXCAVATING & EQUIPMENT | 05/19/00 | \$1,397,227.02  |
| PLATTE            | J4S1355  | JAMES CAPE & SONS COMPANY         | 05/19/00 | \$4,620,357.41  |
| COLE              | J5P0771  | APLEX INC                         | 05/19/00 | \$83,139.50     |
| ST LOUIS          | J6U0804B | FRED WEBER                        | 05/19/00 | \$17,923,467.41 |
| ST CHARLES/ST LOL | J6I1445  | D & S FENCING                     | 05/19/00 | \$1,803,262.00  |
| FRANKLIN          | J6P1325  | JRW CONSTRUCTION                  | 05/19/00 | \$624,093.97    |
| ST LOUIS CITY     | J6X1350I | COLLINS & HERMANN INC             | 05/19/00 | \$119,119.19    |
| ST LOUIS CITY     | J6I0985G | SLBC INC                          | 05/19/00 | \$5,391,521.50  |
| WEBSTER           | J8S0392  | SIERRA BRAVO INC                  | 05/19/00 | \$1,256,964.22  |
| GREENE            | J8U0544  | HARTMAN & COMPANY INC             | 05/19/00 | \$3,728,192.64  |
| ST LOUIS          | J6S1438  | JRW CONSTRUCTION                  | 05/19/00 | \$942,026.42    |
| BUCHANAN          | J1S0778  | JAMES H DREW CORP                 | 06/16/00 | \$300,005.94    |
| NODAWAY           | J1S0779  | LOCH SAND AND CONSTRUCTION        | 06/16/00 | \$323,056.30    |
| LIVINGSTON        | J2P0476C | ROBERTSON CONTRACTORS INC         | 06/16/00 | \$18,093,283.11 |
| MARION            | J3P0637  | BOONE CONSTRUCTION CO             | 06/16/00 | \$88,862.98     |
| LINCOLN           | J3P0636  | MID RIVER ASPHALT INC             | 06/16/00 | \$92,046.82     |

|                |          |  |          |                 |
|----------------|----------|--|----------|-----------------|
| MARION         | J3P0638  | CHESTER BROSS CONST CO/CB EQUIPMENT          | 06/16/00 | \$67,536.50     |
| JACKSON        | J4U1096  | CLAKSON CONSTRUCTION COMPANY                 | 06/16/00 | \$13,565,028.36 |
| JACKSON        | J4U1011D | LOCHSAND AND CONSTRUCTION                    | 06/16/00 | \$5,507,171.74  |
| JACKSON        | J4I1502  | SCOTT SWARTZ DBA SUNSET LAWN & LANDS         | 06/16/00 | \$557,324.50    |
| JACKSON        | J4P1499  | COMANCHE CONSTRUCTION INC                    | 06/16/00 | \$566,508.98    |
|                |          | LEAVENWORTH EXC & EQUIP/JULIUS KAAZ CONST JT |          |                 |
| CLAY           | J4I1345  | VNT  | 06/16/00 | \$1,426,255.64  |
| COLE           | J5S0773  | SCHRIMPF LANDSCAPING                         | 06/16/00 | \$79,090.94     |
| COLE           | J5P0774  | MCLAKE CONSTRUCTION COMPANY                  | 06/16/00 | \$112,183.02    |
| WRIGHT         | J8P0678  | BURK BRIDGE                                  | 06/16/00 | \$294,324.31    |
| DENT           | J9S0268  | VIEBROCK CONSTRUCTION & EQUIPMENT            | 06/16/00 | \$547,531.25    |
| IRON           | J9S0478  | ROBERTSON CONTRACTORS                        | 06/16/00 | \$301,077.84    |
| HOWELL         | J9U0366B | HR QUADRI CONSTRUCTION                       | 06/16/00 | \$7,385,951.60  |
| CARTER         | J9P0282  | MILLSTONE BANGERT INC                        | 06/16/00 | \$9,345,168.89  |
| PEMISCOT       | J0I0801  | JW GITHENS COMPANY                           | 06/16/00 | \$449,733.60    |
| CAPE GIRARDEAU | J0I0550  | GAINES CONSTRUCTION                          | 06/16/00 | \$2,384,340.43  |
| HARRISON       | J1I0780  | APAC MISSOURI INC                            | 06/16/00 | \$1,264,132.27  |
| ST CHARLES     | J6I1306  | PACE CONSTRUCTION                            | 06/16/00 | \$1,517,000.00  |
| ST CHARLES     | J6S1304  | LF KRUPP CONSTRUCTION                        | 06/16/00 | \$2,455,876.25  |
| JACKSON        | J4U0564F | SUPERIOR BOWEN ASPHALT                       | 07/21/00 | \$8,494,161.96  |
| PETTIS         | J5P0775  | TASCO CONSTRUCTION                           | 07/21/00 | \$279,677.50    |
| ST CHARLES     | J6I0736E | FRED WEBER INC                               | 07/21/00 | \$3,541,626.27  |
| STE GENEVIEVE  | J0I0812  | APAC MISSOURI INC                            | 07/21/00 | \$7,133,319.08  |
| BUTLER         | J0S0807  | PACE CONSTRUCTION                            | 07/21/00 | \$203,788.75    |
| BUCHANAN       | J1I0762B | DELONGS INC                                  | 08/18/00 | \$283,498.96    |
| ATCHISON       | J1I0781  | APAC MISSOURI INC                            | 08/18/00 | \$2,040,267.63  |
| MARION         | J3U0269  | ANDERSON EXCAVATING & GRADING                | 08/18/00 | \$1,899,845.50  |
| CASS           | J4P1504  | REALM CONSTRUCTION                           | 08/18/00 | \$272,456.60    |
| OSAGE          | J5P0344  | FREENSEN INC                                 | 08/18/00 | \$5,351,357.26  |
| ST LOUIS       | J6I1301  | PACE CONSTRUCTION COMPANY                    | 08/18/00 | \$4,878,118.81  |
| DENT           | J9P0291  | JEFFERSON ASPHALT COMPANY                    | 08/18/00 | \$2,222,664.70  |
| PEMISCOT       | J0I0809  | GIRARDEAU CONTRACTORS                        | 08/18/00 | \$2,745,774.01  |
| BUTLER         | J0P0810  | PACE CONSTRUCTION COMPANY                    | 08/18/00 | \$3,485,563.80  |
| BOONE          | J5U0673  | APAC MISSOURI INC                            | 09/15/00 | \$9,829,303.44  |
| CHRISTIAN      | J8P0453  | LEO JOURNAGAN CONSTRUCTION COMPANY           | 09/15/00 | \$9,434,767.55  |
| PEMISCOT       | J0P0600B | ROBERTSON INC BRIDGE & GRADING DIVISION      | 09/15/00 | \$1,599,921.20  |

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\$604,377,155.71

**Market Area Summary  
Construction Project DBE Participation  
FY 2000 Oct. 1999 - Sept. 2000**

Attachment 14

| Availability Market Areas | # of Projects | Contract Amount  | Intended DBE    | Approved DBE    | Intended DBE % | Approved DBE % |
|---------------------------|---------------|------------------|-----------------|-----------------|----------------|----------------|
| <b>Kansas City Area</b>   | 20            | \$98,169,534.01  | \$9,539,590.49  | \$10,080,887.05 | 9.72%          | 10.27%         |
| <b>St. Louis Area</b>     | 26            | \$133,880,765.58 | \$18,839,424.62 | \$16,408,355.38 | 14.07%         | 12.26%         |
| <b>Columbia Area</b>      | 3             | \$17,773,821.03  | \$1,539,482.05  | \$924,019.55    | 8.66%          | 5.20%          |
| <b>Springfield Area</b>   | 2             | \$8,325,461.00   | \$908,199.09    | \$933,565.36    | 10.91%         | 11.21%         |
| <b>Out State Area</b>     | 92            | \$354,158,705.46 | \$26,902,482.09 | \$30,289,319.71 | 7.60%          | 8.55%          |

**Market Area Summary  
Construction Project DBE Participation  
October 1997 - Sept. 2000**

| Availability Market Areas | # of Projects | Contract Amount  | Intended DBE    | Approved DBE    | Intended DBE % | Approved DBE % |
|---------------------------|---------------|------------------|-----------------|-----------------|----------------|----------------|
| <b>Kansas City Area</b>   | 42            | \$290,388,333.11 | \$35,581,054.55 | \$42,111,369.55 | 12.25%         | 14.50%         |
| <b>St. Louis Area</b>     | 89            | \$562,068,287.98 | \$62,248,694.45 | \$58,724,675.20 | 11.07%         | 10.45%         |
| <b>Columbia Area</b>      | 9             | \$40,846,058.25  | \$3,472,852.73  | \$2,925,269.28  | 8.50%          | 7.16%          |
| <b>Springfield Area</b>   | 9             | \$37,963,513.95  | \$3,896,340.47  | \$3,955,427.30  | 10.26%         | 10.42%         |
| <b>Out State Area</b>     | 223           | \$856,490,230.79 | \$73,631,766.11 | \$81,064,851.72 | 8.60%          | 9.46%          |

# KC Projects

Attachment 15

## FY 1998

| COUNTY  | JOB_NO   | CONTRACTOR                | DATELET  | CONTRPRICE      | Project DBE Goal | \$ Bid Total   | Bid % Total | \$ Sub Total       | Sub % Total | % Difference | \$ Difference  |
|---------|----------|---------------------------|----------|-----------------|------------------|----------------|-------------|--------------------|-------------|--------------|----------------|
| CLAY    | J4I1247  | SUPERIOR BOWEN ASPHALT CO | 12/12/97 | \$4,558,381.68  | 12.00            | \$547,740.00   | 12.02%      | \$793,211.14       | 17.40%      | 5.39%        | \$245,471.14   |
| CLAY    | J4U1241  | MASTERS JACKSON PAVING    | 01/30/98 | \$3,470,795.44  | 12.00            | \$442,031.25   | 12.74%      | \$453,475.20       | 13.07%      | 0.33%        | \$11,443.95    |
| PLATTE  | J4I1249  | SUPERIOR BOWEN ASPHALT CO | 02/20/98 | \$1,318,751.85  | 12.00            | \$128,690.00   | 9.76%       | \$171,356.16       | 12.99%      | 3.24%        | \$42,666.16    |
| JACKSON | J4U0011R | WA ELLIS CONSTRUCTION     | 03/20/98 | \$40,657,391.51 | 15.00            | \$6,098,609.00 | 15.00%      | \$11,697,753.45    | 28.77%      | 13.77%       | \$5,599,144.45 |
| PLATTE  | J4I1246  | SUPERIOR BOWEN ASPHALT CO | 04/24/98 | \$8,392,453.80  | 11.00            | \$923,169.92   | 11.00%      | \$537,061.23       | 6.40%       | 0.00%        | \$0.00         |
| JACKSON | J4I1250  | COMANCHE CONSTRUCTION     | 05/22/98 | \$9,469,214.70  | 15.00            | \$1,481,328.30 | 15.64%      | \$1,588,178.02     | 16.77%      | 1.13%        | \$106,849.72   |
| JACKSON | J4I0073  | COMANCHE CONSTRUCTION     | 05/22/98 | \$18,388,829.75 | 10.00            | \$2,092,285.45 | 11.38%      | \$2,641,224.70     | 14.36%      | 2.99%        | \$548,939.25   |
| JACKSON | J4U0002I | LG BARCUS & SONS          | 06/19/98 | \$1,399,853.35  | 10.00            | \$142,000.00   | 10.14%      | \$249,843.10       | 17.85%      | 7.70%        | \$107,843.10   |
| JACKSON | J4U1011  | IDEKER INC                | 07/24/98 | \$14,041,618.42 | 12.00            | \$1,685,811.50 | 12.01%      | \$2,332,206.11     | 16.61%      | 4.60%        | \$646,394.61   |
| JACKSON | J4U0564E | LG BARCUS & SONS          | 08/21/98 | \$3,969,084.00  | 13.00            | \$531,239.00   | 13.38%      | \$551,969.16       | 13.91%      | 0.52%        | \$20,730.16    |
|         |          |                           |          | 10              | \$105,666,374.50 |                |             | Race Neutral Total |             | 4.41%        | \$814,386.95   |

## FY 1999

|                  |          |  |          |                 |                 |                |        |                    |        |       |              |
|------------------|----------|--|----------|-----------------|-----------------|----------------|--------|--------------------|--------|-------|--------------|
| CLAY             | J4U0029D | JAMES CAPE & SONS COMPANY                  | 10/23/98 | \$9,343,794.96  | 13.00           | \$1,218,832.34 | 13.04% | \$1,245,720.53     | 13.33% | 0.29% | \$26,888.19  |
| JACKSON          | J4U0752  | RA KNAPP CONSTRUCTION                      | 12/02/98 | \$1,449,989.77  | 14.00           | \$205,609.50   | 14.18% | \$215,685.58       | 14.87% | 0.69% | \$10,076.08  |
| JACKSON          | J4U0011U | CLARKSON CONSTRUCTION                      | 12/02/98 | \$32,430,598.22 | 13.00           | \$4,221,090.00 | 13.02% | \$4,249,385.54     | 13.10% | 0.09% | \$28,295.54  |
| CLAY             | J4X1322  | MEGA INDUSTRIES CORP                       | 12/02/98 | \$131,189.74    | 16.00           | \$21,264.72    | 16.21% | \$34,281.80        | 26.13% | 9.92% | \$13,017.08  |
| JACKSON          | J4P1191  | WA ELLIS CONSTRUCTION                      | 03/19/99 | \$10,268,548.43 | 15.00           | \$1,541,294.20 | 15.01% | \$1,082,528.54     | 10.54% | 0.00% | \$0.00       |
| JACKSON          | J4I0557G | MEGA INDUSTRIES CORP                       | 03/19/99 | \$648,343.10    | 0.00            | \$0.00         | 0.00%  | \$11,046.35        | 1.70%  | 1.70% | \$11,046.35  |
| PLATTE           | J4U1108  | LOCH SAND & CONSTRUCTION                   | 03/19/99 | \$7,856,576.14  | 15.00           | \$1,183,076.00 | 15.06% | \$1,354,895.93     | 17.25% | 2.19% | \$171,819.93 |
| PLATTE           | J4I1367  | SUPERIOR BOWEN ASPHALT CO                  | 03/19/99 | \$938,350.55    | 14.00           | \$131,369.08   | 14.00% | \$95,013.60        | 10.13% | 0.00% | \$0.00       |
| JACKSON/C<br>ASS | J4U0932  | JAMES CAPE & SONS COMPANY<br>DAMON PURSELL | 04/23/99 | \$17,568,166.98 | 15.00           | \$2,700,000.00 | 15.37% | \$1,778,801.28     | 10.13% | 0.00% | \$0.00       |
| CLAY             | J4P0934B | CONSTRUCTION                               | 05/21/99 | \$2,655,645.94  | 11.00           | \$417,923.40   | 15.74% | \$593,252.09       | 22.34% | 6.60% | \$175,328.69 |
| JACKSON          | J4I1299C | JAMES H DREW CORP                          | 05/21/99 | \$2,539,179.77  | 10.00           | \$255,055.65   | 10.04% | \$280,548.24       | 11.05% | 1.00% | \$25,492.59  |
| CLAY             | J4I1359  | EARTHWORKS OF KS LLC                       | 09/17/99 | \$722,041.00    | 10.00           | \$73,044.75    | 10.12% | \$73,044.75        | 10.12% | 0.00% | \$0.00       |
|                  |          |  |          | 12              | \$86,552,424.60 |                |        | Race Neutral Total |        | 2.81% | \$57,745.56  |



# FY 2000

|              |          |  |          |             |                 |                |                    |                |        |        |              |
|--------------|----------|--|----------|-------------|-----------------|----------------|--------------------|----------------|--------|--------|--------------|
| CLAY         | J4U0873  | THOMAS INDUSTRIAL COATINGS                       | 10/22/99 | 3833265     | 2.00            | \$80,000.00    | 2.09%              | \$0.00         | 0.00%  | 0.00%  | \$0.00       |
| JACKSON      | J4I1299  | SUPERIOR BOWEN ASPHALT CO THOMAS INDUSTRIAL      | 10/22/99 | 10546392.83 | 12.00           | \$1,268,201.81 | 12.02%             | \$1,300,123.30 | 12.33% | 0.30%  | \$31,921.49  |
| PLATTE       | J4U1292  | COATINGS   | 10/22/99 | 0           | 0.00            | \$0.00         | 0.00%              | \$124,186.25   | 0.00%  | 0.00%  | \$124,186.25 |
| JACKSON      | J4U0916  | MEGA INDUSTRIES CORP                             | 12/10/99 | 2718511.79  | 14.00           | \$528,337.00   | 19.43%             | \$853,938.58   | 31.41% | 11.98% | \$325,601.58 |
| CLAY/JACKSON | J4U1303D | EDWARD KRAEMER & SONS                            | 12/10/99 | 18991867.9  | 10.00           | \$1,933,952.00 | 10.18%             | \$1,905,232.00 | 10.03% | 0.00%  | \$0.00       |
| CLAY         | J4S1110  | MISSOURI BRIDGE & CONCRETE APAC MISSOURI         | 01/21/00 | 1369993.34  | 11.00           | \$115,394.00   | 8.42%              | \$120,870.50   | 8.82%  | 0.40%  | \$5,476.50   |
| CLAY         | J4P1329  | INDEPENDENCE DIV CLARKSON CONSTRUCTION           | 01/21/00 | 3198241.98  | 10.00           | \$336,993.00   | 10.54%             | \$348,748.38   | 10.90% | 0.37%  | \$11,755.38  |
| JACKSON      | J4U1096B | COMPANY  | 01/21/00 | 6327682     | 2.00            | \$140,000.00   | 2.21%              | \$171,829.37   | 2.72%  | 0.50%  | \$31,829.37  |
| JACKSON      | J4S0915  | INDUSTRIAL EXCAVATING & EQUIPMENT INC            | 02/18/00 | 5678000     | 12.00           | \$762,999.00   | 13.44%             | \$725,448.01   | 12.78% | 0.00%  | \$0.00       |
| JACKSON      | J4I1498  | INDUSTRIAL EXCAVATING & EQUIPMENT                | 03/17/00 | 242606.06   | 0.00            | \$0.00         | 0.00%              | \$0.00         | 0.00%  | 0.00%  | \$0.00       |
| CLAY         | J4U1097  | LG BARCUS & SONS INC                             | 04/21/00 | 1086135.4   | 12.00           | \$130,454.20   | 12.01%             | \$136,065.70   | 12.53% | 0.52%  | \$5,611.50   |
| JACKSON      | J4U0958  | PYRAMID CONTRACTORS INC                          | 04/21/00 | 1967767.49  | 9.00            | \$196,669.00   | 9.99%              | \$213,669.00   | 10.86% | 0.86%  | \$17,000.00  |
| CLAY         | J4S0109B | APAC MISSOURI INC                                | 05/19/00 | 7472261.63  | 6.00            | \$448,551.66   | 6.00%              | \$385,430.90   | 5.16%  | 0.00%  | \$0.00       |
| PLATTE       | J4S1355  | JAMES CAPE & SONS COMPANY                        | 05/19/00 | 4620357.41  | 11.00           | \$528,348.57   | 11.44%             | \$781,277.11   | 16.91% | 5.47%  | \$252,928.54 |
| JACKSON      | J4I1502  | SCOTT SWARTZ DBA SUNSET LAWN & LANDS             | 06/16/00 | 557324.5    | 0.00            | \$0.00         | 0.00%              | \$0.00         | 0.00%  | 0.00%  | \$0.00       |
| JACKSON      | J4P1499  | COMANCHE CONSTRUCTION INC                        | 06/16/00 | 566508.98   | 10.00           | \$63,793.20    | 11.26%             | \$72,723.20    | 12.84% | 1.58%  | \$8,930.00   |
| CLAY         | J4I1345  | LEAVENWORTH EXC & EQUIP/JULIUS KAAZ CONST JT VNT | 06/16/00 | 1426255.64  | 15.00           | \$240,220.95   | 16.84%             | \$245,788.95   | 17.23% | 0.39%  | \$5,568.00   |
| JACKSON      | J4U1096  | CLAKSON CONSTRUCTION COMPANY                     | 06/16/00 | 13565028.36 | 10.00           | \$1,357,389.30 | 10.01%             | \$1,356,392.95 | 10.00% | 0.00%  | \$0.00       |
| JACKSON      | J4U1011D | LOCHSAND AND CONSTRUCTION                        | 06/16/00 | 5507171.74  | 7.00            | \$473,301.80   | 8.59%              | \$0.00         | 0.00%  | 0.00%  | \$0.00       |
| JACKSON      | J4U0564F | SUPERIOR BOWEN ASPHALT                           | 07/21/00 | 8494161.96  | 11.00           | \$934,985.00   | 11.01%             | \$1,339,162.85 | 15.77% | 4.76%  | \$404,177.85 |
|              |          |  |          | 20          | \$98,169,534.01 |                | Race Neutral Total |                |        | 2.47%  | \$111,362.41 |

Y 1998

| Y 1998               |          |   |          |                 | Project          | \$ Bid             | Bid %  | \$ Sub         | Sub %  | %          | \$           |
|----------------------|----------|---|----------|-----------------|------------------|--------------------|--------|----------------|--------|------------|--------------|
| COUNTY               | JOB_NO   | CONTRACTOR  | DATELET  | CONTRPRICE      | DBE Goal         | Total              | Total  | Total          | Total  | Difference | Difference   |
| T LOUIS              | J6I0617D | MILLSTONE BANGERT                                   | 10/24/97 | \$13,073,840.42 | 13.00            | \$1,700,000.00     | 13.00% | \$1,825,353.50 | 13.96% | 0.96%      | \$125,353.50 |
| T CHARLES/ST LOUIS   | J6I1222  | MILLSTONE BANGERT                                   | 10/24/97 | \$3,354,366.50  | 10.00            | \$340,000.00       | 10.14% | \$471,765.40   | 14.06% | 3.93%      | \$131,765.40 |
| EFFERSON             | J6S0704D | JH BERRA CONSTRUCTION                               | 12/12/97 | \$5,442,716.01  | 12.00            | \$654,197.00       | 12.02% | \$547,122.92   | 10.05% | 0.00%      | \$0.00       |
| EFFERSON             | J6X1285  | GERSTNER ELECTRIC                                   | 12/12/97 | \$42,071.00     | 0.00             | \$0.00             | 0.00%  | \$0.00         | 0.00%  | 0.00%      | \$0.00       |
| EFFERSON             | J6I0726  | FRED WEBER  | 12/12/97 | \$7,489,236.51  | 11.00            | \$823,836.02       | 11.00% | \$935,256.47   | 12.49% | 1.49%      | \$111,420.45 |
| T LOUIS              | J6U0804  | FRED WEBER  | 12/12/97 | \$24,731,884.42 | 15.00            | \$3,699,771.66     | 14.96% | \$3,616,109.91 | 14.62% | 0.00%      | \$0.00       |
| T LOUIS              | J6I1135  | FRED WEBER  | 12/12/97 | \$2,735,984.63  | 13.00            | \$485,678.00       | 17.75% | \$473,875.59   | 17.32% | 0.00%      | \$0.00       |
| EFFERSON             | J4X1284  | GERSTNER ELECTRIC                                   | 12/12/97 | \$48,420.00     | 0.00             | \$0.00             | 0.00%  | \$0.00         | 0.00%  | 0.00%      | \$0.00       |
| T LOUIS/ST CHARLES   | J6U0803J | MIDWEST FOUNDATION CORP<br>D/B/A TREMONT FOUNDATION | 01/30/98 | \$28,190,563.10 | 11.00            | \$3,126,835.00     | 11.09% | \$2,297,610.57 | 8.15%  | 0.00%      | \$0.00       |
| RANKLIN/<br>EFFERSON | J6S0429B | FRED WEBER<br>PACE CONSTRUCTION                     | 02/20/98 | \$1,347,597.55  | 12.00            | \$161,711.71       | 12.00% | \$169,591.90   | 12.58% | 0.58%      | \$7,880.19   |
| T LOUIS              | J6U1278  | COMPANY<br>PACE CONSTRUCTION                        | 02/20/98 | \$1,047,923.70  | 10.00            | \$106,000.00       | 10.12% | \$108,363.80   | 10.34% | 0.23%      | \$2,363.80   |
| T LOUIS              | J6I0651C | COMPANY<br>PACE CONSTRUCTION                        | 02/20/98 | \$8,215,600.01  | 12.00            | \$1,006,762.00     | 12.25% | \$1,037,185.34 | 12.62% | 0.37%      | \$30,423.34  |
| T LOUIS              | J6I1220C | COMPANY   | 02/20/98 | \$698,419.50    | 13.00            | \$91,300.00        | 13.07% | \$99,322.68    | 14.22% | 1.15%      | \$8,022.68   |
| T CHARLES            | J6U0803U | FRED WEBER  | 03/20/98 | \$1,637,111.04  | 12.00            | \$196,453.32       | 12.00% | \$197,362.10   | 12.06% | 0.06%      | \$908.78     |
| T LOUIS              | J6U1066  | FRED WEBER  | 03/20/98 | \$3,143,617.63  | 11.00            | \$345,747.94       | 11.00% | \$331,590.08   | 10.55% | 0.00%      | \$0.00       |
| T LOUIS              | J6I1220F | GERSTNER ELECTRIC                                   | 04/24/98 | \$710,613.00    | 0.00             | \$0.00             | 0.00%  | \$0.00         | 0.00%  | 0.00%      | \$0.00       |
| EFFERSON             | J6S0704I | JH BERRA CONSTRUCTION                               | 04/24/98 | \$5,487,000.00  | 11.00            | \$614,544.00       | 11.20% | \$634,454.76   | 11.56% | 0.36%      | \$19,910.76  |
| T LOUIS              | J6I1203D | KOZENY WAGNER INC                                   | 04/24/98 | \$176,534.13    | 0.00             | \$0.00             | 0.00%  | \$4,021.79     | 2.28%  | 2.28%      | \$4,021.79   |
| T LOUIS              | J6I0617U | KOZENY WAGNER INC                                   | 04/24/98 | \$196,401.48    | 0.00             | \$0.00             | 0.00%  | \$3,994.32     | 2.03%  | 2.03%      | \$3,994.32   |
| RANKLIN              | J6U0836  | NB WEST CONTRACTING                                 | 04/24/98 | \$5,369,669.73  | 12.00            | \$751,907.81       | 14.00% | \$760,347.61   | 14.16% | 0.16%      | \$8,439.80   |
| T LOUIS              | J6I0617M | MULLIGAN CONSTRUCTION                               | 04/24/98 | \$958,009.40    | 0.00             | \$0.00             | 0.00%  | \$0.00         | 0.00%  | 0.00%      | \$0.00       |
| T LOUIS              | J6S1264B | SPECTRUM UTILITY<br>SERVICES                        | 05/22/98 | \$259,381.86    | 8.00             | \$20,956.04        | 8.08%  | \$20,956.04    | 8.08%  | 0.00%      | \$0.00       |
| RANKLIN              | J6X1280  | NB WEST CONTRACTING                                 | 05/22/98 | \$188,204.40    | 13.00            | \$24,469.00        | 13.00% | \$24,469.05    | 13.00% | 0.00%      | \$0.05       |
| T LOUIS              | J6U0803H | FRED WEBER  | 05/22/98 | \$3,074,619.89  | 15.00            | \$461,249.00       | 15.00% | \$461,249.00   | 15.00% | 0.00%      | \$0.00       |
| T LOUIS<br>ITY       | J6I1220B | KCI CONSTRUCTION<br>COMPANY                         | 06/19/98 | \$22,077,171.37 | 15.00            | \$3,312,029.00     | 15.00% | \$3,494,891.07 | 15.83% | 0.83%      | \$182,862.07 |
| T LOUIS              | J6I1291  | MULLIGAN CONSTRUCTION                               | 07/24/98 | \$507,835.00    | 10.00            | \$51,000.00        | 10.04% | \$43,344.52    | 8.54%  | 0.00%      | \$0.00       |
| T CHARLES            | J6U0803D | GAINES CONSTRUCTION                                 | 08/21/98 | \$2,040,369.51  | 11.00            | \$224,540.00       | 11.00% | \$215,540.50   | 10.56% | 0.00%      | \$0.00       |
| EFFERSON             | J6P0876B | JH BERRA CONSTRUCTION                               | 08/21/98 | \$3,468,000.00  | 11.00            | \$384,824.10       | 11.10% | \$183,888.90   | 5.30%  | 0.00%      | \$0.00       |
| T CHARLES            | J6P1265  | MILLSTONE BANGERT                                   | 08/21/98 | \$2,958,835.33  | 13.00            | \$384,650.00       | 13.00% | \$511,943.77   | 17.30% | 4.30%      | \$127,293.77 |
| RANKLIN/ST LOUIS     | J6I1282  | COLLINS & HERMANN INC                               | 09/18/98 | \$1,304,604.44  | 14.00            | \$183,855.00       | 14.09% | \$196,987.00   | 15.10% | 1.01%      | \$13,132.00  |
|                      |          |   |          | 30              | \$149,976,601.56 | Race Neutral Total |        |                |        | 0.38%      | \$20,205.49  |

**FY 1999**

|                             |          |  |          |                 |        |                |           |                |         |       |              |
|-----------------------------|----------|--|----------|-----------------|--------|----------------|-----------|----------------|---------|-------|--------------|
| ST CHARLES/ST LOUIS         | J6P0672G | FRED WEBER                                   | 10/23/98 | \$1,179,729.83  | 14.00  | \$165,181.40   | 14.00%    | \$165,181.40   | 14.00%  | 0.00% | \$0.00       |
| ST CHARLES                  | J6X1340C | D & S FENCING                                | 10/23/98 | \$130,556.00    | 15.00  | \$130,556.00   | 100.00%   | \$130,556.00   | 100.00% | 0.00% | \$0.00       |
| ST LOUIS                    | J6P1289  | RV WAGNER INC                                | 12/02/98 | \$93,357.95     | 16.00  | \$14,940.00    | 16.00%    | \$14,939.96    | 16.00%  | 0.00% | \$0.00       |
| ST LOUIS                    | J6S1370  | SPECTRUM UTILITY SERVICES                    | 12/02/98 | \$131,139.74    | 12.00  | \$40,219.80    | 30.67%    | \$40,219.80    | 30.67%  | 0.00% | \$0.00       |
| ST LOUIS/ST LOUIS/JEFFERSON | J6S1370B | SPECTRUM UTILITY SERVICES                    | 12/02/98 | \$192,367.22    | 0.00   | \$0.00         | 0.00%     | \$0.00         | 0.00%   | 0.00% | \$0.00       |
| ST LOUIS CITY               | J6I0985F | FRED WEBER                                   | 01/21/99 | \$14,492,644.50 | 14.00  | \$2,029,940.00 | 14.01%    | \$2,805,029.90 | 19.35%  | 5.35% | \$775,089.90 |
| ST LOUIS                    | J6U0803E | WALTER CONSTRUCTION (USA) INC                | 36182    | 73470543.7      | \$7.00 | \$5,143,000.00 | \$0.07    | \$6,016,707.00 | \$0.08  | 1.19% | \$873,707.00 |
| ST LOUIS                    | J6U0803Q | FRED WEBER                                   | 01/22/99 | \$3,022,153.56  | 11.00  | \$333,190.00   | 11.02%    | \$339,306.77   | 11.23%  | 0.20% | \$6,116.77   |
| ST LOUIS                    | J6U0792  | FRED WEBER                                   | 01/22/99 | \$4,636,311.51  | 11.00  | \$510,151.50   | 11.00%    | \$522,395.64   | 11.27%  | 0.26% | \$12,244.14  |
| ST LOUIS                    | J6I0729B | NB WEST CONTRACTING KCI CONSTRUCTION COMPANY | 01/22/99 | \$1,948,991.66  | 13.00  | \$253,432.10   | 13.00%    | \$301,118.75   | 15.45%  | 2.45% | \$47,686.65  |
| ST LOUIS                    | J6I0617O | PACE CONSTRUCTION COMPANY                    | 02/19/99 | \$1,240,410.45  | 2.00   | \$24,850.00    | 2.00%     | \$20,560.70    | 1.66%   | 0.00% | \$0.00       |
| ST LOUIS/ST LOUIS CITY      | J6I0945B | PACE CONSTRUCTION COMPANY                    | 02/19/99 | \$5,567,853.72  | 15.00  | \$856,526.63   | 15.38%    | \$757,980.14   | 13.61%  | 0.00% | \$0.00       |
| JEFFERSON                   | J6P1372  | KOZENY WAGNER INC                            | 02/19/99 | \$860,643.94    | 16.00  | \$139,692.08   | 16.23%    | \$151,580.18   | 17.61%  | 1.38% | \$11,888.10  |
| ST LOUIS CITY               | J6I1250  | MILLSTONE BANGERT                            | 02/19/99 | \$1,726,403.42  | 13.00  | \$227,240.00   | 13.16%    | \$234,439.80   | 13.58%  | 0.42% | \$7,199.80   |
| ST LOUIS                    | J6U0804G | FRED WEBER                                   | 03/19/99 | \$8,734,141.53  | 11.00  | \$960,969.00   | 11.00%    | \$1,037,888.03 | 11.88%  | 0.88% | \$76,919.03  |
| ST LOUIS CITY               | J6I1033  | MILLSTONE BANGERT                            | 03/19/99 | \$19,120,906.84 | 14.00  | \$2,900,000.00 | 15.17%    | \$2,067,362.26 | 10.81%  | 0.00% | \$0.00       |
| ST LOUIS                    | J6U0803W | FRED WEBER                                   | 03/19/99 | \$9,046,588.58  | 8.00   | \$723,995.60   | 8.00%     | \$804,976.10   | 8.90%   | 0.90% | \$80,980.50  |
| ST LOUIS/ST LOUIS CITY      | J6I1200  | PACE CONSTRUCTION COMPANY                    | 03/19/99 | \$817,188.64    | 14.00  | \$718,461.88   | 87.92%    | \$718,672.76   | 87.94%  | 0.03% | \$210.88     |
| ST LOUIS CITY               | J6I1334  | ST LOUIS BRIDGE                              | 04/23/99 | \$1,482,679.05  | 14.00  | \$208,349.85   | 14.05%    | \$256,251.05   | 17.28%  | 3.23% | \$47,901.20  |
| FRANKLIN                    | J6I1281  | KOZENY WAGNER INC                            | 04/23/99 | \$1,809,279.62  | 13.00  | \$245,972.00   | 13.60%    | \$294,067.84   | 16.25%  | 2.66% | \$48,095.84  |
| ST LOUIS                    | J6I0651D | KOZENY WAGNER INC                            | 04/23/99 | \$15,387,721.03 | 14.00  | \$2,207,653.32 | 14.35%    | \$2,389,731.47 | 15.53%  | 1.18% | \$182,078.15 |
| ST LOUIS/ST CHARLES         | J6I1412  | GERSTNER ELECTRIC PACE CONSTRUCTION COMPANY  | 04/23/99 | \$341,051.00    | 11.00  | \$612,549.20   | 179.61%   | \$612,549.20   | 179.61% | 0.00% | \$0.00       |
| ST LOUIS                    | J6P1415  | PACE CONSTRUCTION COMPANY                    | 05/21/99 | \$604,295.48    | 0.00   | \$0.00         | 0.00%     | \$0.00         | 0.00%   | 0.00% | \$0.00       |
| JEFFERSON                   | J6U1072  | FRED WEBER                                   | 05/21/99 | \$5,857,547.24  | 12.00  | \$703,697.56   | 12.01%    | \$946,269.29   | 16.15%  | 4.14% | \$242,571.73 |
| ST LOUIS                    | J6X1343  | PACE CONSTRUCTION COMPANY                    | 05/21/99 | \$557,425.95    | 0.00   | \$0.00         | 0.00%     | \$10,194.50    | 1.83%   | 1.83% | \$10,194.50  |
| ST LOUIS                    | J6I1299  | PACE CONSTRUCTION COMPANY                    | 05/21/99 | \$5,783,130.20  | 14.00  | \$809,775.00   | 14.00%    | \$819,542.50   | 14.17%  | 0.17% | \$9,767.50   |
| JEFFERSON                   | J6S0704J | FRED WEBER                                   | 05/21/99 | \$4,989,726.65  | 15.00  | \$748,749.00   | 15.01%    | \$749,635.46   | 15.02%  | 0.02% | \$886.46     |
| ST LOUIS                    | J6U0803I | EDWARD KRAEMER & SONS                        | 36329    | 79378781.6      | 3      | 2383627        | 0.0300285 | 0              | 0       | 0.00% | \$0.00       |
| ST CHARLES                  | J6U0803X | JH BERRA CONSTRUCTION                        | 06/18/99 | \$7,623,000.00  | 7.00   | \$676,086.76   | 8.87%     | \$617,144.11   | 8.10%   | 0.00% | \$0.00       |
| ST LOUIS                    | J6I1417  | KOZENY WAGNER INC                            | 07/23/99 | \$536,110.24    | 3.00   | \$16,786.40    | 3.13%     | \$57,281.69    | 10.68%  | 7.55% | \$40,495.29  |
| ST LOUIS                    | J6U1066C | GAINES CONSTRUCTION                          | 08/20/99 | \$3,362,628.21  | 15.00  | \$505,141.55   | 15.02%    | \$505,141.55   | 15.02%  | 0.00% | \$0.00       |

|            |         |                              |          |                  |                    |              |        |              |        |       |              |
|------------|---------|------------------------------|----------|------------------|--------------------|--------------|--------|--------------|--------|-------|--------------|
| JEFFERSON  | J6S0903 | GOODWIN BROS<br>CONSTRUCTION | 09/17/99 | \$2,625,000.01   | 12.00              | \$336,700.00 | 12.83% | \$337,410.81 | 12.85% | 0.03% | \$710.81     |
| ST CHARLES | J6S1024 | FRED WEBER                   | 09/17/99 | \$1,460,611.77   | 15.00              | \$219,547.60 | 15.03% | \$215,123.55 | 14.73% | 0.00% | \$0.00       |
|            |         |                              | 33       | \$278,210,920.84 | Race Neutral Total |              |        |              |        | 1.78% | \$130,249.70 |

## FY 2000

|                           |          |   |          |                  |                    |                |         |                |        |       |              |
|---------------------------|----------|---|----------|------------------|--------------------|----------------|---------|----------------|--------|-------|--------------|
| ST LOUIS                  | J6I0617r | GOODWIN BROS<br>CONSTRUCTION                      | 10/22/99 | 1557712.05       | 0.00               | \$13,996.00    | 0.90%   | \$15,191.63    | 0.98%  | 0.08% | \$1,195.63   |
| ST LOUIS                  | J6U0803B | FRED WEBER  | 10/22/99 | 6814238.33       | 4.00               | \$272,281.68   | 4.00%   | \$274,781.68   | 4.03%  | 0.04% | \$2,500.00   |
| ST LOUIS                  | J6U0774  | MILLSTONE BANGERT<br>BI STATE BRIDGE WORKS<br>LLC | 10/22/99 | 4347189.89       | 20.00              | \$870,000.00   | 20.01%  | \$173,231.45   | 3.98%  | 0.00% | \$0.00       |
| ST LOUIS                  | J6U0685B | RV WAGNER INC                                     | 10/22/99 | 352006.05        | 19.00              | \$67,694.29    | 19.23%  | \$67,694.29    | 19.23% | 0.00% | \$0.00       |
| ST LOUIS                  | J6S1425  | PACE CONSTRUCTION<br>COMPANY                      | 12/10/99 | 37357.8          | 15.00              | \$5,700.00     | 15.26%  | \$522.00       | 1.40%  | 0.00% | \$0.00       |
| ST LOUIS                  | J6I1303  | CHESTER BROSS<br>CONST/CB EQUIP INC               | 12/10/99 | 13992845.84      | 17.00              | \$2,378,988.90 | 17.00%  | \$2,343,090.20 | 16.74% | 0.00% | \$0.00       |
| JEFFERSON                 | J6I1354  | FRED WEBER  | 12/10/99 | 7276743.74       | 10.00              | \$856,634.76   | 11.77%  | \$1,066,396.16 | 14.65% | 2.88% | \$209,761.40 |
| ST CHARLES                | J6P0672H | FRED WEBER  | 01/21/00 | 13462243.97      | 10.00              | \$1,347,152.60 | 10.01%  | \$1,650,253.22 | 12.26% | 2.25% | \$303,100.62 |
| ST CHARLES                | J6U0803G | FRED WEBER  | 01/21/00 | 9272839.67       | 9.00               | \$834,856.95   | 9.00%   | \$846,548.45   | 9.13%  | 0.13% | \$11,691.50  |
| ST CHARLES                | J6S1241  | JH BERRA CONSTRUCTION                             | 02/18/00 | 1243812          | 14.00              | \$176,777.05   | 14.21%  | \$106,527.05   | 8.56%  | 0.00% | \$0.00       |
| JEFFERSON                 | J6S0773  | GOODWIN BROS<br>CONSTRUCTION                      | 02/18/00 | 948810.95        | 15.00              | \$149,000.00   | 15.70%  | \$130,809.83   | 13.79% | 0.00% | \$0.00       |
| ST LOUIS                  | J6I0979  | SLBC INC  | 02/18/00 | 12276415.25      | 20.00              | \$2,455,283.04 | 20.00%  | \$1,367,065.15 | 11.14% | 0.00% | \$0.00       |
| ST LOUIS                  | J6S1423  | GERSTNER ELECTRIC                                 | 02/18/00 | 582864           | 5.00               | \$27,000.00    | 4.63%   | \$27,000.00    | 4.63%  | 0.00% | \$0.00       |
| ST LOUIS                  | J6S1316  | VANCE BROTHERS INC                                | 03/17/00 | 821476.4         | 19.00              | \$158,000.00   | 19.23%  | \$154,018.90   | 18.75% | 0.00% | \$0.00       |
| ST LOUIS                  | J6S1316B | VANCE BROTHERS INC<br>GERSHENSON                  | 03/17/00 | 722787.14        | 11.00              | \$79,000.00    | 10.93%  | \$78,383.60    | 10.84% | 0.00% | \$0.00       |
| JEFFERSON                 | J6S0770  | CONSTRUCTION                                      | 04/21/00 | 3758404.65       | 10.00              | \$395,754.00   | 10.53%  | \$487,627.14   | 12.97% | 2.44% | \$91,873.14  |
| JEFFERSON                 | J6P0876C | JH BERRA CONSTRUCTION                             | 04/21/00 | 17841000         | 10.00              | \$1,785,887.40 | 10.01%  | \$1,891,928.98 | 10.60% | 0.59% | \$106,041.58 |
| ST LOUIS                  | J6S1438  | JRW CONSTRUCTION                                  | 05/19/00 | 942026.42        | 11.00              | \$106,000.00   | 11.25%  | \$106,004.02   | 11.25% | 0.00% | \$4.02       |
| ST LOUIS<br>CITY          | J6I0985G | SLBC INC  | 05/19/00 | 5391521.5        | 16.00              | \$866,000.00   | 16.06%  | \$1,355,200.00 | 25.14% | 9.07% | \$489,200.00 |
| ST LOUIS<br>CITY          | J6X1350I | COLLINS & HERMANN INC                             | 05/19/00 | 119119.19        | 10.00              | \$11,924.13    | 10.01%  | \$11,911.92    | 10.00% | 0.00% | \$0.00       |
| ST<br>CHARLES/ST<br>LOUIS | J6I1445  | D & S FENCING                                     | 05/19/00 | 1803262          | 15.00              | \$1,803,261.95 | 100.00% | \$453,320.00   | 25.14% | 0.00% | \$0.00       |
| ST LOUIS                  | J6U0804B | FRED WEBER  | 05/19/00 | 17923467.41      | 14.00              | \$2,355,303.00 | 13.14%  | \$2,355,473.56 | 13.14% | 0.00% | \$170.56     |
| ST CHARLES                | J6I1306  | PACE CONSTRUCTION                                 | 06/16/00 | 1517000          | 7.00               | \$106,190.00   | 7.00%   | \$106,184.97   | 7.00%  | 0.00% | \$0.00       |
| ST CHARLES                | J6S1304  | LF KRUPP CONSTRUCTION                             | 06/16/00 | 2455876.25       | 15.00              | \$382,724.87   | 15.58%  | \$215,264.21   | 8.77%  | 0.00% | \$0.00       |
| ST CHARLES                | J6I0736E | FRED WEBER INC                                    | 07/21/00 | 3541626.27       | 15.00              | \$531,528.00   | 15.01%  | \$241,451.97   | 6.82%  | 0.00% | \$0.00       |
| ST LOUIS                  | J6I1301  | PACE CONSTRUCTION<br>COMPANY                      | 08/18/00 | 4878118.81       | 14.00              | \$802,475.00   | 16.45%  | \$882,475.00   | 18.09% | 1.64% | \$80,000.00  |
|                           |          |   | 26       | \$133,880,765.58 | Race Neutral Total |                |         |                |        | 1.74% | \$134,331.66 |

### Columbia Projects

| FY 1998 |          |                                     |          |                 | Project  | \$ Bid       | Bid %  | \$ Sub             | Sub %  | %          | \$          |
|---------|----------|-------------------------------------|----------|-----------------|----------|--------------|--------|--------------------|--------|------------|-------------|
| COUNTY  | JOB_NO   | CONTRACTOR                          | DATE/LET | CONTR/PRICE     | DBE Goal | Total        | Total  | Total              | Total  | Difference | Difference  |
| BOONE   | J5P0418B | CHESTER BROSS CONST/CB EQUIP INC    | 09/18/98 | \$4,084,427.93  | 10.00    | \$408,443.11 | 10.00% | \$417,206.15       | 10.21% | 0.21%      | \$8,763.04  |
|         |          |                                     | 1        | \$4,084,427.93  |          |              |        | Race Neutral Total |        | 0.21%      | \$8,763.04  |
| FY 1999 |          |                                     |          |                 |          |              |        |                    |        |            |             |
| BOONE   | J5I0699  | APAC MISSOURI RICHARDSON BASS       | 01/22/99 | \$3,623,242.80  | 10.00    | \$362,793.17 | 10.01% | \$398,155.98       | 10.99% | 0.98%      | \$35,362.81 |
| BOONE   | J5S0499  | APAC MISSOURI CENTRAL COMPANIES DIV | 02/19/99 | \$415,377.41    | 10.00    | \$59,519.54  | 14.33% | \$64,728.10        | 15.58% | 1.25%      | \$5,208.56  |
| BOONE   | J5U0364  | APAC MISSOURI                       | 05/21/99 | \$6,780,333.22  | 10.00    | \$694,171.75 | 10.24% | \$703,953.35       | 10.38% | 0.14%      | \$9,781.60  |
|         |          |                                     | 5        | \$18,987,809.29 |          |              |        | Race Neutral Total |        | 0.79%      | \$16,784.32 |
| FY 2000 |          |                                     |          |                 |          |              |        |                    |        |            |             |
| BOONE   | J5P0418  | APAC MISSOURI RICHARDSON BASS       | 12/01/99 | 5089869.34      | 3.00     | \$152,698.80 | 3.00%  | \$152,698.80       | 3.00%  | 0.00%      | \$0.00      |
| BOONE   | J5I0475  | APAC MISSOURI                       | 02/18/00 | 2854648.25      | 14.00    | \$399,711.00 | 14.00% | \$427,661.75       | 14.98% | 0.98%      | \$27,950.75 |
| BOONE   | J5U0673  | APAC MISSOURI INC                   | 09/15/00 | 9829303.44      | 10.00    | \$987,072.25 | 10.04% | \$343,659.00       | 3.50%  | 0.00%      | \$0.00      |
|         |          |                                     | 3        | \$17,773,821.03 |          |              |        | Race Neutral Total |        | 0.98%      | \$27,950.75 |

### Springfield Projects

| FY 1998   |          |                                     |          |                 | Project  | \$ Bid         | Bid %   | \$ Sub             | Sub %   | %          | \$          |
|-----------|----------|-------------------------------------|----------|-----------------|----------|----------------|---------|--------------------|---------|------------|-------------|
| COUNTY    | JOB_NO   | CONTRACTOR                          | DATE/LET | CONTR/PRICE     | DBE Goal | Total          | Total   | Total              | Total   | Difference | Difference  |
| GREENE    | J8I0647  | BURK BRIDGE COMPANY                 | 04/24/98 | \$2,004,255.89  | 10.00    | \$203,247.00   | 10.14%  | \$207,539.10       | 10.35%  | 0.21%      | \$4,292.10  |
| GREENE    | J8P0360  | JOHN BURK CONSTRUCTION              | 04/24/98 | \$696,736.50    | 8.00     | \$58,460.20    | 8.39%   | \$105,633.00       | 15.16%  | 6.77%      | \$47,172.80 |
|           |          |                                     | 2        | \$2,700,992.39  |          |                |         | Race Neutral Total |         | 3.49%      | \$25,732.45 |
| FY 1999   |          |                                     |          |                 |          |                |         |                    |         |            |             |
| GREENE    | J8U0509  | APAC MISSOURI MASTERS JACKSON       | 01/22/99 | \$4,220,955.27  | 10.00    | \$422,117.07   | 10.00%  | \$422,900.96       | 10.02%  | 0.02%      | \$783.89    |
| GREENE    | J8P0406  | APAC MISSOURI CENTRAL COMPANIES DIV | 02/19/99 | \$5,992,398.92  | 10.00    | \$603,534.33   | 10.07%  | \$598,878.45       | 9.99%   | 0.00%      | \$0.00      |
| GREENE    | J8M0007  | KENNEDY CONTRACTORS INC             | 03/19/99 | \$64,582.00     | 0.00     | \$64,582.00    | 100.00% | \$64,582.00        | 100.00% | 0.00%      | \$0.00      |
| GREENE    | J8P0342B | SIERRA BRAVO INC                    | 06/18/99 | \$14,994,824.97 | 10.00    | \$1,501,797.78 | 10.02%  | \$1,547,450.93     | 10.32%  | 0.30%      | \$45,653.15 |
| GREENE    | J8U0605B | HARTMAN & CO INC                    | 08/20/99 | \$1,664,299.40  | 8.00     | \$134,403.00   | 8.08%   | \$139,459.50       | 8.38%   | 0.30%      | \$5,056.50  |
|           |          |                                     | 5        | \$26,937,060.56 |          |                |         | Race Neutral Total |         | 0.21%      | \$17,164.51 |
| FY 2000   |          |                                     |          |                 |          |                |         |                    |         |            |             |
| GREENE/WE | J8I0633  | APAC MISSOURI MASTERS JACKSON       | 03/17/00 | 4597268.36      | 10.00    | \$460,001.00   | 10.01%  | \$485,368.14       | 10.56%  | 0.55%      | \$25,367.14 |
| GREENE    | J8U0544  | HARTMAN & COMPANY INC               | 05/19/00 | 3728192.64      | 12.00    | \$448,198.09   | 12.02%  | \$448,197.22       | 12.02%  | 0.00%      | \$0.00      |
|           |          |                                     | 2        | \$8,325,461.00  |          |                |         | Race Neutral Total |         | 0.55%      | \$25,367.14 |



## Out State Projects

| FY 1998             |          |                                   |          |                 |          | Project        | \$ Bid  | Bid %          | \$ Sub  | Sub %      | %              | \$ |
|---------------------|----------|-----------------------------------|----------|-----------------|----------|----------------|---------|----------------|---------|------------|----------------|----|
| COUNTY              | JOB_NO   | CONTRACTOR                        | DATELET  | CONTRPRICE      | DBE Goal | Total          | Total   | Total          | Total   | Difference | Difference     |    |
| CAPE GIRARDEAU      | J0I0791  | PACE CONSTRUCTION COMPANY         | 08/21/98 | \$219,340.88    | 16.00    | \$36,186.20    | 16.50%  | \$36,186.20    | 16.50%  | 0.00%      | \$0.00         |    |
| BUTLER              | J0P0339B | EMERY GAPP & SONS                 | 12/12/97 | \$8,182,321.57  | 10.00    | \$820,992.60   | 10.03%  | \$497,358.10   | 6.08%   | 0.00%      | \$0.00         |    |
| SCOTT               | J0S0773  | ROBERTSON CONTRACTORS             | 09/18/98 | \$4,621,237.76  | 11.00    | \$519,729.06   | 11.25%  | \$402,695.81   | 8.71%   | 0.00%      | \$0.00         |    |
| CAPE GIRARDEAU      | J0U0321B | MASSMAN CONSTRUCTION              | 03/20/98 | \$25,630,417.00 | 6.00     | \$1,543,248.00 | 6.02%   | \$1,885,987.65 | 7.36%   | 1.34%      | \$342,739.65   |    |
| CAPE GIRARDEAU      | J0U0321F | NICHOLSON CONSTRUCTION COMPANY    | 03/20/98 | \$3,885,200.00  | 0.00     | \$0.00         | 0.00%   | \$0.00         | 0.00%   | 0.00%      | \$0.00         |    |
| ATCHISON            | J1I0734  | NORRIS ASPHALT PAVING             | 02/20/98 | \$7,791,107.15  | 7.00     | \$575,000.00   | 7.38%   | \$685,328.80   | 8.80%   | 1.42%      | \$110,328.80   |    |
| HOLT                | J1I0737  | NORRIS ASPHALT PAVING             | 03/20/98 | \$4,120,239.96  | 7.00     | \$378,036.00   | 9.18%   | \$403,679.05   | 9.80%   | 0.62%      | \$25,643.05    |    |
| ANDREW              | J1P0627D | LOCH SAND & CONSTRUCTION          | 12/12/97 | \$3,526,116.53  | 10.00    | \$382,911.00   | 10.86%  | \$401,637.39   | 11.39%  | 0.53%      | \$18,726.39    |    |
| DEKALB              | J1P0726  | HERZOG CONTRACTING CORP           | 04/24/98 | \$2,047,570.75  | 8.00     | \$234,570.00   | 11.46%  | \$255,074.78   | 12.46%  | 1.00%      | \$20,504.78    |    |
| ATCHISON/NEMAHA, NE | J1P0757  | ST JOSEPH FUEL OIL & MFG          | 04/24/98 | \$368,026.44    | 5.00     | \$51,000.00    | 13.86%  | \$69,532.40    | 18.89%  | 5.04%      | \$18,532.40    |    |
| LIVINGSTON          | J2P0346  | PARIS ASPHALT COMPANY             | 01/30/98 | \$3,409,251.86  | 10.00    | \$375,890.62   | 11.03%  | \$807,903.19   | 23.70%  | 12.67%     | \$432,012.57   |    |
| GRUNDY              | J2P0388  | RICHARDSON & BASS CONSTRUCTION CO | 10/24/97 | \$2,942,200.91  | 7.00     | \$206,879.88   | 7.03%   | \$206,879.88   | 7.03%   | 0.00%      | \$0.00         |    |
| SCHUYLER            | J2P0649  | BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$3,177,879.81  | 7.00     | \$231,858.34   | 7.30%   | \$330,624.15   | 10.40%  | 3.11%      | \$98,765.81    |    |
| SCHUYLER/ADAIR      | J2P0658  | WL MILLER COMPANY                 | 02/20/98 | \$1,717,878.67  | 0.00     | \$0.00         | 0.00%   | \$0.00         | 0.00%   | 0.00%      | \$0.00         |    |
| MERCER              | J2P0661  | HALL & RILEY PAVING CO            | 02/20/98 | \$648,314.83    | 6.00     | \$47,092.50    | 7.26%   | \$52,097.50    | 8.04%   | 0.77%      | \$5,005.00     |    |
| LINN                | J2S0326  | HARDYS INC                        | 04/24/98 | \$1,044,932.31  | 7.00     | \$78,973.88    | 7.56%   | \$74,699.53    | 7.15%   | 0.00%      | \$0.00         |    |
| MACON               | J2S0328  | HARRY H HOUF & SONS CONTRACTORS   | 04/24/98 | \$558,889.65    | 7.00     | \$40,178.00    | 7.19%   | \$38,718.50    | 6.93%   | 0.00%      | \$0.00         |    |
| RANDOLPH            | J2U0488C | HOWARD CONSTRUCTION               | 04/24/98 | \$7,764,222.75  | 10.00    | \$847,436.78   | 10.91%  | \$1,286,900.16 | 16.57%  | 5.66%      | \$439,463.38   |    |
| RALLS/PIKE          | J3P0062  | IDEKER INC                        | 05/22/98 | \$8,595,688.54  | 10.00    | \$859,569.00   | 10.00%  | \$934,530.96   | 10.87%  | 0.87%      | \$74,961.96    |    |
| SCOTLAND            | J3P0274  | EMERY GAPP & SONS                 | 03/19/98 | \$2,492,642.46  | 9.00     | \$243,530.53   | 9.77%   | \$228,132.53   | 9.15%   | 0.00%      | \$0.00         |    |
| SCOTLAND            | J3P0275  | HARDYS INC                        | 06/19/98 | \$1,302,152.86  | 10.00    | \$109,292.55   | 8.39%   | \$137,681.65   | 10.57%  | 2.18%      | \$28,389.10    |    |
| WARREN              | J3P0416B | GAINES CONSTRUCTION               | 02/20/98 | \$524,236.10    | 8.00     | \$42,069.50    | 8.02%   | \$63,298.20    | 12.07%  | 4.05%      | \$21,228.70    |    |
| PIKE                | J3P0428  | BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$4,207,338.69  | 7.00     | \$295,297.03   | 7.02%   | \$339,410.60   | 8.07%   | 1.05%      | \$44,113.57    |    |
| RALLS               | J3P0549  | BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$2,894,485.81  | 10.00    | \$293,049.74   | 10.12%  | \$309,318.30   | 10.69%  | 0.56%      | \$16,268.56    |    |
| MONTGOMERY          | J3P0550  | PACE CONSTRUCTION COMPANY         | 01/30/98 | \$728,052.71    | 10.00    | \$72,812.48    | 10.00%  | \$72,812.48    | 10.00%  | 0.00%      | \$0.00         |    |
| LINCOLN             | J3P0588  | COLUMBIA CURB & GUTTER            | 09/18/98 | \$267,357.03    | 13.00    | \$267,357.03   | 100.00% | \$267,357.03   | 100.00% | 0.00%      | \$0.00         |    |
| RAY                 | J4P0923  | IDEKER INC                        | 04/24/98 | \$1,448,414.04  | 10.00    | \$144,841.40   | 10.00%  | \$165,422.17   | 11.42%  | 1.42%      | \$20,580.77    |    |
| HENRY/ST CLAIR      | J4P0933B | HILTY QUARRIES                    | 09/18/98 | \$11,210,558.51 | 11.00    | \$1,250,111.94 | 11.15%  | \$1,196,294.57 | 10.67%  | 0.00%      | \$0.00         |    |
| HENRY               | J4P0933C | CHESTER BROSS CONST/CB EQUIP INC  | 12/12/97 | \$7,211,708.45  | 9.00     | \$650,933.03   | 9.03%   | \$703,733.43   | 9.76%   | 0.73%      | \$52,800.40    |    |
| LAFAYETTE           | J4P1033  | HALL & RILEY PAVING CO            | 02/20/98 | \$2,197,218.05  | 10.00    | \$289,015.40   | 13.15%  | \$801,091.70   | 36.46%  | 23.31%     | \$512,076.30   |    |
| JOHNSON             | J4U1136  | HILTY QUARRIES                    | 10/24/97 | \$3,516,961.22  | 11.00    | \$396,696.41   | 11.28%  | \$405,077.30   | 11.52%  | 0.24%      | \$8,380.89     |    |
| CASS                | J4U1279  | CHESTER BROSS CONST/CB EQUIP INC  | 04/24/98 | \$6,969,786.25  | 12.00    | \$847,162.75   | 12.15%  | \$2,449,184.20 | 35.14%  | 22.99%     | \$1,602,021.45 |    |
| COOPER/HOWARD       | J5P0257B | JENSEN CONSTRUCTION COMPANY       | 12/12/97 | \$241,497.10    | 0.00     | \$0.00         | 0.00%   | \$0.00         | 0.00%   | 0.00%      | \$0.00         |    |
| COLE/OSAGE          | J5P0344C | EDWARD KRAEMER & SONS             | 01/30/98 | \$5,036,897.75  | 5.00     | \$266,359.00   | 5.29%   | \$277,887.09   | 5.52%   | 0.23%      | \$11,528.09    |    |
| CAMDEN              | J5P0724  | LAKE OZARK CONSTRUCTION           | 01/30/98 | \$2,373,666.96  | 11.00    | \$261,902.38   | 11.03%  | \$254,743.38   | 10.73%  | 0.00%      | \$0.00         |    |
| COLE                | J5S0755  | APEX INC                          | 03/20/98 | \$187,918.42    | 5.00     | \$187,918.42   | 100.00% | \$187,918.42   | 100.00% | 0.00%      | \$0.00         |    |
| COLE/CALLAWAY       | J5U0018B | JENSEN CONSTRUCTION COMPANY       | 01/30/98 | \$9,190,278.00  | 2.00     | \$202,414.00   | 2.20%   | \$221,197.50   | 2.41%   | 0.20%      | \$18,783.50    |    |
| ST FRANCOIS         | J6P0669G | JH BERRA CONSTRUCTION             | 04/24/98 | \$3,091,961.00  | 10.00    | \$309,816.50   | 10.02%  | \$316,816.50   | 10.25%  | 0.23%      | \$7,000.00     |    |
| JASPER/LAWRENCE     | J7I0616  | MASTERS JACKSON PAVING            | 12/12/97 | \$2,568,653.30  | 10.00    | \$260,095.00   | 10.13%  | \$260,095.00   | 10.13%  | 0.00%      | \$0.00         |    |
| NEWTON/MCDONALD     | J7P0491B | SIERRA BRAVA INC                  | 01/30/98 | \$10,853,930.07 | 7.00     | \$797,746.15   | 7.35%   | \$902,774.15   | 8.32%   | 0.97%      | \$105,028.00   |    |
| NEWTON/MCDONALD     | J7P0491C | CENTRAL BRIDGE COMPANY            | 01/30/98 | \$5,012,951.62  | 7.00     | \$359,741.00   | 7.18%   | \$407,024.60   | 8.12%   | 0.94%      | \$47,283.60    |    |
| MCDONALD            | J7P0492B | FREENSEN INC                      | 08/21/98 | \$21,093,178.27 | 12.00    | \$2,541,952.01 | 12.05%  | \$1,644,678.61 | 7.80%   | 0.00%      | \$0.00         |    |
| ST CLAIR            | J7P0540  | MISSOURI BRIDGE & CONCRETE        | 10/24/97 | \$1,214,095.26  | 7.00     | \$85,074.90    | 7.01%   | \$86,874.90    | 7.16%   | 0.15%      | \$1,800.00     |    |
| BARRY/STONE         | J7S0614  | LEO JOURNAGAN CONSTRUCTION        | 03/20/98 | \$503,573.43    | 8.00     | \$40,989.25    | 8.14%   | \$45,564.49    | 9.05%   | 0.91%      | \$4,575.24     |    |
| LACLEDE             | J8I0668  | APAC MISSOURI MASTERS JACKSON     | 04/24/98 | \$2,064,700.86  | 9.00     | \$317,877.00   | 15.40%  | \$335,569.16   | 16.25%  | 0.86%      | \$17,692.16    |    |
| TANEY               | J8P0454C | WA ELLIS CONSTRUCTION             | 10/24/97 | \$6,064,610.40  | 7.00     | \$514,184.00   | 8.48%   | \$547,653.23   | 9.03%   | 0.55%      | \$33,469.23    |    |
| CHRISTIAN           | J8P0588B | LEO JOURNAGAN CONSTRUCTION        | 03/20/98 | \$1,718,535.45  | 10.00    | \$173,402.70   | 10.09%  | \$171,414.33   | 9.97%   | 0.00%      | \$0.00         |    |
| WRIGHT              | J8P0634  | CHESTER BROSS CONST/CB EQUIP INC  | 07/24/98 | \$6,193,950.35  | 12.00    | \$745,481.07   | 12.04%  | \$784,145.09   | 12.66%  | 0.62%      | \$38,664.02    |    |
| TANEY               | J8P0666  | LEO JOURNAGAN CONSTRUCTION        | 01/30/98 | \$625,236.35    | 7.00     | \$51,401.20    | 8.22%   | \$52,974.40    | 8.47%   | 0.25%      | \$1,573.20     |    |
| PULASKI             | J9I0465  | APAC MISSOURI RICHARDSON BASS     | 04/24/98 | \$1,471,698.84  | 7.00     | \$133,235.20   | 9.05%   | \$130,623.20   | 8.88%   | 0.00%      | \$0.00         |    |
| TEXAS               | J9P0323  | APAC MISSOURI INC                 | 08/21/98 | \$1,682,785.61  | 10.00    | \$168,406.32   | 10.01%  | \$162,088.28   | 9.63%   | 0.00%      | \$0.00         |    |
| HOWELL              | J9P0365C | HOWARD CONSTRUCTION               | 05/22/98 | \$4,878,912.04  | 10.00    | \$677,769.50   | 13.89%  | \$994,729.14   | 20.39%  | 6.50%      | \$316,959.64   |    |
| PHELPS/DENT         | J9P0377B |                                   | 12/12/97 | \$4,899,082.37  | 10.00    | \$498,449.10   | 10.17%  | \$534,325.35   | 10.91%  | 0.73%      | \$35,876.25    |    |
| RIPLEY              | J9P0453  | PACE CONSTRUCTION COMPANY         | 03/20/98 | \$438,413.26    | 7.00     | \$31,005.62    | 7.07%   | \$31,005.62    | 7.07%   | 0.00%      | \$0.00         |    |
| CARTER              | J9P0461  | PACE CONSTRUCTION COMPANY         | 04/24/98 | \$1,542,963.34  | 10.00    | \$157,478.82   | 10.21%  | \$156,678.82   | 10.15%  | 0.00%      | \$0.00         |    |
| WASHINGTON          | J9P0479  | PACE CONSTRUCTION COMPANY         | 04/24/98 | \$2,036,548.20  | 10.00    | \$203,893.25   | 10.01%  | \$258,126.55   | 12.67%  | 2.66%      | \$54,233.30    |    |
| CRAWFORD            | J9S0295  | WEST PLAINS BRIDGE & GRADING      | 04/24/98 | \$1,034,647.71  | 10.00    | \$104,300.00   | 10.08%  | \$107,845.00   | 10.42%  | 0.34%      | \$3,545.00     |    |
| PHELPS/DENT         | J9S0311  | BROSS CONST CO/CB EQUIPMENT INC   | 02/20/98 | \$2,203,464.80  | 10.00    | \$231,969.52   | 10.53%  | \$296,565.52   | 13.46%  | 2.93%      | \$64,596.00    |    |



## FY 1999

|                    |          |  |          |                  |       |                    |         |                |         |        |                |
|--------------------|----------|--|----------|------------------|-------|--------------------|---------|----------------|---------|--------|----------------|
| CAPE GIRARDEAU     | J010787  | GIRARDEAU CONTRACTORS                      | 05/21/99 | \$1,336,313.99   | 10.00 | \$158,628.00       | 11.87%  | \$290,764.53   | 21.76%  | 9.89%  | \$132,136.53   |
| MADISON            | J0P0562B | BLOOMSDALE EXCAVATING COMPANY              | 05/21/99 | \$8,774,197.29   | 9.00  | \$798,750.55       | 9.10%   | \$768,528.49   | 8.74%   | 0.00%  | \$0.00         |
| MADISON            | J0P0562D | ROBERTSON CONTRACTORS                      | 02/19/99 | \$2,152,896.24   | 10.00 | \$235,435.58       | 10.94%  | \$233,270.39   | 10.84%  | 0.00%  | \$0.00         |
| STODDARD/NEW MADRI | J0P0580D | GIRARDEAU CONTRACTORS                      | 12/02/98 | \$3,158,387.96   | 10.00 | \$386,113.35       | 12.23%  | \$760,233.67   | 24.07%  | 11.85% | \$374,120.32   |
| STODDARD           | J0P0756  | GIRARDEAU CONTRACTORS                      | 03/19/99 | \$3,440,646.27   | 10.00 | \$353,269.38       | 10.27%  | \$384,963.38   | 11.19%  | 0.92%  | \$31,694.00    |
| CAPE GIRARDEAU     | J0P0758  | GIRARDEAU CONTRACTORS                      | 03/19/99 | \$165,339.85     | 10.00 | \$16,570.10        | 10.02%  | \$16,570.10    | 10.02%  | 0.00%  | \$0.00         |
| ST FRANCOIS        | J0P0762  | CHESTER BROSS CONST/CB EQUIP INC           | 08/20/99 | \$5,797,324.94   | 4.00  | \$252,888.86       | 4.36%   | \$484,786.56   | 8.36%   | 4.00%  | \$231,897.70   |
| CAPE GIRARDEAU     | J0P0797  | HILLSIDE GARDENS                           | 01/22/99 | \$28,801.00      | 0.00  | \$0.00             | 0.00%   | \$0.00         | 0.00%   | 0.00%  | \$0.00         |
| NEW MADRID         | J0S0785  | HR QUADRI CONSTRUCTION                     | 05/21/99 | \$742,504.99     | 10.00 | \$94,126.63        | 12.68%  | \$107,478.06   | 14.48%  | 1.80%  | \$13,351.43    |
| ST FRANCOIS        | J0U0757  | PACE CONSTRUCTION COMPANY                  | 06/18/99 | \$2,476,158.78   | 10.00 | \$250,097.05       | 10.10%  | \$251,166.02   | 10.14%  | 0.04%  | \$1,068.97     |
| DAVISS             | J110540B | REALM CONSTRUCTION INC                     | 03/19/99 | \$834,044.29     | 10.00 | \$493,466.50       | 59.17%  | \$0.00         | 0.00%   | 0.00%  | \$0.00         |
| DAVISS             | J110540C | PAVEMENT SPECIALISTS INC                   | 03/19/99 | \$660,041.57     | 10.00 | \$75,818.43        | 11.49%  | \$75,818.43    | 11.49%  | 0.00%  | \$0.00         |
| CLINTON            | J110633  | ST JOSEPH FUEL OIL & MFG                   | 03/19/99 | \$990,568.69     | 10.00 | \$110,253.40       | 11.13%  | \$120,976.65   | 12.21%  | 1.08%  | \$10,723.25    |
| ATCHISON           | J110732  | CHESTER BROSS CONST/CB EQUIP INC           | 02/19/99 | \$7,943,347.33   | 10.00 | \$838,964.97       | 10.56%  | \$806,450.12   | 10.15%  | 0.00%  | \$0.00         |
| ANDREW             | J1P0419B | IDEKER INC                                 | 12/02/98 | \$2,609,110.10   | 10.00 | \$260,911.01       | 10.00%  | \$260,911.01   | 10.00%  | 0.00%  | \$0.00         |
| NODAWAY            | J1P0438  | MISSOURI BRIDGE & CONCRETE                 | 03/19/99 | \$2,988,778.19   | 9.00  | \$271,476.12       | 9.08%   | \$260,766.56   | 8.72%   | 0.00%  | \$0.00         |
| ANDREW             | J1P0627C | LOCH SAND & CONSTRUCTION                   | 02/19/99 | \$3,796,183.46   | 10.00 | \$381,881.40       | 10.06%  | \$363,100.29   | 9.56%   | 0.00%  | \$0.00         |
| CALDWELL           | J1P0632C | IDEKER INC                                 | 07/23/99 | \$7,705,854.02   | 9.00  | \$693,526.86       | 9.00%   | \$681,741.00   | 8.85%   | 0.00%  | \$0.00         |
| DAVISS             | J1S0499  | HARDYS INC                                 | 01/22/99 | \$1,337,298.80   | 10.00 | \$133,985.00       | 10.02%  | \$134,541.60   | 10.08%  | 0.04%  | \$556.60       |
| CALDWELL           | J1S0527  | BESTGEN INC                                | 03/19/99 | \$254,226.07     | 10.00 | \$30,430.34        | 11.97%  | \$53,207.02    | 20.93%  | 8.96%  | \$22,776.68    |
| DEKALB             | J1S0637  | COLUMBIA CURB & GUTTER                     | 02/19/99 | \$1,812,365.21   | 10.00 | \$1,812,365.21     | 100.00% | \$1,812,365.21 | 100.00% | 0.00%  | \$0.00         |
| SALINE             | J210630  | CHESTER BROSS CONST/CB EQUIP INC           | 02/19/99 | \$4,545,223.98   | 10.00 | \$489,937.48       | 10.78%  | \$1,059,273.88 | 23.31%  | 12.53% | \$569,336.20   |
| CHARITON           | J2P0265  | EMERY SAPP & SONS                          | 02/19/99 | \$2,129,696.59   | 10.00 | \$213,256.44       | 10.01%  | \$207,815.28   | 9.76%   | 0.00%  | \$0.00         |
| LIVINGSTON         | J2P0476B | HOWARD CONSTRUCTION                        | 10/23/98 | \$7,643,824.52   | 8.00  | \$612,505.42       | 8.01%   | \$741,142.16   | 9.70%   | 1.68%  | \$128,636.74   |
| RANDOLPH           | J2P0489C | OSAGE CONSTRUCTORS INC                     | 02/19/99 | \$3,216,805.00   | 8.00  | \$257,391.00       | 8.00%   | \$224,858.25   | 6.99%   | 0.00%  | \$0.00         |
| CARROLL            | J2P0659  | HALL & RILEY QUARRIES & CONST/HALL & RILEY | 02/19/99 | \$748,742.66     | 6.00  | \$100,135.51       | 13.37%  | \$108,609.51   | 14.24%  | 0.86%  | \$6,474.00     |
| MACON              | J2P0660  | APAC MISSOURI RICHARDSON BASS              | 03/19/99 | \$1,888,437.68   | 4.00  | \$75,537.51        | 4.00%   | \$75,537.51    | 4.00%   | 0.00%  | \$0.00         |
| MONTGOMERY         | J310551  | PACE CONSTRUCTION COMPANY                  | 02/19/99 | \$2,136,871.95   | 10.00 | \$229,015.54       | 10.72%  | \$502,918.45   | 23.54%  | 12.82% | \$273,902.91   |
| LEWIS              | J3P0270  | WL MILLER COMPANY                          | 03/19/99 | \$327,276.97     | 10.00 | \$33,530.63        | 10.25%  | \$8,531.55     | 2.61%   | 0.00%  | \$0.00         |
| CLARK              | J3P0440  | HARDYS INC                                 | 06/18/99 | \$2,391,201.23   | 10.00 | \$242,277.40       | 10.13%  | \$261,108.06   | 10.92%  | 0.79%  | \$18,830.66    |
| RALLS/MARION       | J3P0579  | HALL & RILEY PAVING CO                     | 03/19/99 | \$737,980.42     | 10.00 | \$80,700.00        | 10.94%  | \$94,574.60    | 12.82%  | 1.88%  | \$13,874.60    |
| LINCOLN            | J3P0586  | MID RIVER ASPHALT                          | 06/18/99 | \$1,700,452.17   | 8.00  | \$123,147.83       | 7.24%   | \$123,317.09   | 7.25%   | 0.01%  | \$169.26       |
| RALLS              | J3P0595  | HI VO CONSTRUCTION COMPANY                 | 02/19/99 | \$82,273.50      | 10.00 | \$10,632.00        | 12.92%  | \$11,232.00    | 13.65%  | 0.73%  | \$600.00       |
| MONROE             | J3S0476  | EMERY SAPP & SONS                          | 06/18/99 | \$710,540.57     | 9.00  | \$66,280.63        | 9.33%   | \$66,280.63    | 9.33%   | 0.00%  | \$0.00         |
| MARION             | J3U0269H | EDWARD KRAEMER & SONS                      | 10/23/98 | \$8,808,799.60   | 5.00  | \$502,373.31       | 5.70%   | \$641,046.28   | 7.28%   | 1.57%  | \$138,672.97   |
| LAFAYETTE          | J410815  | CHESTER BROSS CONST/CB EQUIP INC           | 05/21/99 | \$8,930,211.82   | 8.00  | \$714,553.45       | 8.00%   | \$734,291.95   | 8.22%   | 0.22%  | \$19,738.50    |
| BENTON             | J4P0936  | HILTY QUARRIES                             | 06/18/99 | \$8,329,920.14   | 7.00  | \$617,908.48       | 7.42%   | \$617,910.82   | 7.42%   | 0.00%  | \$2.34         |
| CASS               | J4S0981  | RADMACHER BROTHERS EXCAVATING              | 04/23/99 | \$3,657,282.97   | 14.00 | \$541,422.03       | 14.80%  | \$586,879.93   | 16.05%  | 1.24%  | \$45,457.90    |
| JOHNSON            | J4S1140  | MISSOURI BRIDGE & CONCRETE                 | 12/02/98 | \$559,658.62     | 10.00 | \$64,877.30        | 11.59%  | \$64,877.30    | 11.59%  | 0.00%  | \$0.00         |
| COOPER             | J510695  | HALL & RILEY QUARRIES & CONST/HALL & RILEY | 02/19/99 | \$1,382,888.19   | 0.00  | \$0.00             | 0.00%   | \$3,920.00     | 0.28%   | 0.28%  | \$3,920.00     |
| OSAGE/COLE         | J5P0344B | CHESTER BROSS CONST/CB EQUIP INC           | 04/23/99 | \$5,527,406.72   | 8.00  | \$446,758.85       | 8.08%   | \$501,228.09   | 9.07%   | 0.99%  | \$54,469.24    |
| CAMDEN             | J5P0347F | FREENSEN INC                               | 02/19/99 | \$3,447,862.87   | 10.00 | \$347,562.30       | 10.08%  | \$72,696.19    | 2.11%   | 0.00%  | \$0.00         |
| CAMDEN             | J5P0509  | JENSEN CONSTRUCTION COMPANY                | 03/19/99 | \$8,243,834.33   | 9.00  | \$762,274.00       | 9.25%   | \$659,401.48   | 8.00%   | 0.00%  | \$0.00         |
| CAMDEN             | J5P0589B | JENSEN CONSTRUCTION COMPANY                | 06/18/99 | \$6,267,463.50   | 0.00  | \$0.00             | 0.00%   | \$0.00         | 0.00%   | 0.00%  | \$0.00         |
| MORGAN             | J5P0749  | APAC MISSOURI RICHARDSON BASS              | 02/19/99 | \$1,413,330.13   | 10.00 | \$141,335.00       | 10.00%  | \$330,412.22   | 23.38%  | 13.38% | \$189,077.22   |
| MORGAN             | J5S0548  | APAC MISSOURI CENTRAL COMPANIES DIV        | 02/19/99 | \$1,145,088.10   | 10.00 | \$114,198.00       | 9.97%   | \$113,627.80   | 9.92%   | 0.00%  | \$0.00         |
| COLE               | J5U0414D | FREENSEN INC                               | 03/19/99 | \$3,049,882.27   | 10.00 | \$295,006.28       | 9.67%   | \$309,458.22   | 10.15%  | 0.47%  | \$14,451.94    |
| CRAWFORD           | J6P0571B | JH BERRA CONSTRUCTION                      | 06/18/99 | \$8,767,000.00   | 10.00 | \$903,278.81       | 10.30%  | \$956,014.43   | 10.90%  | 0.60%  | \$52,735.62    |
| ST FRANCOIS        | J6P0669B | JH BERRA CONSTRUCTION                      | 03/19/99 | \$2,944,000.00   | 10.00 | \$300,808.15       | 10.22%  | \$309,218.65   | 10.50%  | 0.29%  | \$8,410.50     |
| ST CLAIR           | J7P0428B | SIERRA BRAVO INC                           | 12/02/98 | \$3,042,692.00   | 10.00 | \$305,933.27       | 10.05%  | \$260,840.11   | 8.57%   | 0.00%  | \$0.00         |
| ST CLAIR           | J7P0428C | HOWARD CONSTRUCTION                        | 08/20/99 | \$9,500,947.56   | 6.00  | \$570,856.72       | 6.01%   | \$717,467.52   | 7.55%   | 1.54%  | \$146,610.80   |
| CEDAR              | J7P0504  | VIEBROCK CONSTRUCTION & EQUIPMENT          | 10/23/98 | \$540,446.55     | 11.00 | \$59,971.96        | 11.10%  | \$59,971.96    | 11.10%  | 0.00%  | \$0.00         |
| CEDAR/ST CLAIR     | J7P0620  | PACE CONSTRUCTION COMPANY                  | 10/23/98 | \$4,409,905.10   | 11.00 | \$632,000.00       | 14.33%  | \$999,744.45   | 22.67%  | 8.34%  | \$367,744.45   |
| ST CLAIR           | J7P0621  | APAC MISSOURI MASTERS JACKSON              | 02/19/99 | \$2,725,063.18   | 10.00 | \$333,603.64       | 12.24%  | \$333,326.53   | 12.23%  | 0.00%  | \$0.00         |
| NEWTON             | J7P0683  | APAC MISSOURI CENTRAL COMPANIES DIV        | 12/02/98 | \$478,670.37     | 7.00  | \$48,268.22        | 10.08%  | \$15,761.00    | 3.29%   | 0.00%  | \$0.00         |
| NEWTON             | J7S0321  | APAC MISSOURI CENTRAL COMPANIES DIV        | 12/02/98 | \$4,300,522.28   | 8.00  | \$344,191.50       | 8.00%   | \$315,572.66   | 7.34%   | 0.00%  | \$0.00         |
| JASPER             | J7U0436C | SNYDER BRIDGE COMPANY                      | 10/23/98 | \$7,615,132.63   | 11.00 | \$872,001.80       | 11.45%  | \$872,572.86   | 11.46%  | 0.01%  | \$571.06       |
| STONE              | J8P0452B | DAVE KOLB GRADING                          | 02/19/99 | \$6,496,489.48   | 10.00 | \$649,649.00       | 10.00%  | \$684,548.06   | 10.54%  | 0.54%  | \$34,899.06    |
| CHRISTIAN          | J8P0453B | FREENSEN INC                               | 04/23/99 | \$5,729,255.53   | 10.00 | \$586,434.86       | 10.24%  | \$618,582.86   | 10.80%  | 0.56%  | \$32,148.00    |
| CHRISTIAN          | J8P0453C | WA ELLIS CONSTRUCTION                      | 01/22/99 | \$8,920,695.60   | 9.00  | \$802,863.76       | 9.00%   | \$788,309.47   | 8.84%   | 0.00%  | \$0.00         |
| TANEY              | J8P0454  | APAC MISSOURI MASTERS JACKSON              | 09/17/99 | \$6,574,200.38   | 12.00 | \$788,928.00       | 12.00%  | \$788,926.40   | 12.00%  | 0.00%  | \$0.00         |
| TANEY/STONE        | J8P0622E | MORRISON KNUDSEN COMPANY                   | 06/18/99 | \$5,865,000.00   | 2.00  | \$124,950.50       | 2.13%   | \$141,645.50   | 2.42%   | 0.28%  | \$16,895.00    |
| TANEY              | J8P0623B | WA ELLIS CONSTRUCTION                      | 03/19/99 | \$3,070,357.85   | 10.00 | \$307,037.50       | 10.00%  | \$323,597.50   | 10.54%  | 0.54%  | \$16,560.00    |
| PULASKI            | J8S0389  | APAC MISSOURI INC                          | 01/22/99 | \$4,895,130.12   | 10.00 | \$494,855.25       | 10.11%  | \$587,606.80   | 12.00%  | 1.89%  | \$92,751.55    |
| POLK               | J8S0551  | JOHN BURK CONSTRUCTION                     | 05/21/99 | \$784,327.50     | 10.00 | \$81,007.52        | 10.33%  | \$84,562.48    | 10.78%  | 0.45%  | \$3,554.96     |
| TANEY              | J8S0667  | WEST PLAINS BRIDGE & GRADING               | 07/23/99 | \$513,959.09     | 5.00  | \$30,225.52        | 5.88%   | \$30,225.53    | 5.88%   | 0.00%  | \$0.01         |
| LACLEDE            | J8X0657  | JAMES H DREW CORP                          | 05/21/99 | \$630,844.34     | 0.00  | \$0.00             | 0.00%   | \$37,664.88    | 5.97%   | 5.97%  | \$37,664.88    |
| PHELPS             | J910466  | ST LOUIS BRIDGE                            | 10/23/98 | \$2,211,847.97   | 12.00 | \$265,421.76       | 12.00%  | \$338,249.97   | 15.29%  | 3.29%  | \$72,828.21    |
| PULASKI            | J910481  | DON SCHNIEDERS EXCAVATING                  | 04/23/99 | \$2,768,027.31   | 10.00 | \$276,823.72       | 10.00%  | \$273,429.72   | 9.88%   | 0.00%  | \$0.00         |
| CARTER             | J9P0282C | JH BERRA CONSTRUCTION                      | 06/18/99 | \$4,638,000.00   | 10.00 | \$465,131.88       | 10.03%  | \$463,950.53   | 10.00%  | 0.00%  | \$0.00         |
| HOWELL             | J9P0363  | HOWARD CONSTRUCTION                        | 03/19/99 | \$12,191,928.36  | 8.00  | \$388,835.00       | 3.19%   | \$1,421,947.27 | 11.66%  | 8.47%  | \$1,033,112.27 |
| HOWELL             | J9P0365  | CHESTER BROSS CONST/CB EQUIP INC           | 05/21/99 | \$7,658,563.35   | 8.00  | \$612,719.70       | 8.00%   | \$627,620.45   | 8.20%   | 0.19%  | \$14,900.75    |
| CRAWFORD           | J9P0470  | DON SCHNIEDERS EXCAVATING                  | 01/22/99 | \$3,585,272.93   | 10.00 | \$297,327.29       | 8.29%   | \$231,376.74   | 6.45%   | 0.00%  | \$0.00         |
| 73                 |          |  |          | \$268,885,625.02 |       | Race Neutral Total |         |                |         | 2.95%  | \$103,100.66   |



|                 |          |  |          |             |       |                |         |                |        |       |                |
|-----------------|----------|--|----------|-------------|-------|----------------|---------|----------------|--------|-------|----------------|
| <b>FY 2000</b>  |          |  |          |             |       |                |         |                |        |       |                |
| RANDOLPH        | J2U0488D | CHESTER BROSS CONST/CB EQUIP INC           | 10/22/99 | 17768476.19 | 7.00  | \$1,273,529.80 | 7.17%   | \$1,439,231.50 | 8.10%  | 0.93% | \$165,701.70   |
| BUTLER          | J0P0339  | JONES BROS                                 | 10/22/99 | 11900795.91 | 3.00  | \$357,023.88   | 3.00%   | \$1,312,177.10 | 11.03% | 8.03% | \$955,153.22   |
| COOPER          | J5P0257C | HALL & RILEY QUARRIES & CONST/HALL & RILEY | 10/22/99 | 101425.35   | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| NEWTON          | J7P0491  | JONES BROS                                 | 10/22/99 | 16277922.37 | 4.00  | \$651,116.89   | 4.00%   | \$1,903,517.95 | 11.69% | 7.69% | \$1,252,401.06 |
| LINCOLN         | J3P0603  | APAC MISSOURI                              | 10/22/99 | 857076.84   | 6.00  | \$51,471.39    | 6.01%   | \$51,471.39    | 6.01%  | 0.00% | \$0.00         |
| RAY             | J4S0960  | RADMACHER BROTHERS EXCAVATING              | 10/22/99 | 1218706.67  | 10.00 | \$121,908.00   | 10.00%  | \$121,905.88   | 10.00% | 0.00% | \$0.00         |
| LACLEDE         | J8I0671B | APAC MISSOURI                              | 10/22/99 | 1545021.3   | 10.00 | \$109,622.49   | 7.10%   | \$146,906.74   | 9.51%  | 2.41% | \$37,284.25    |
| CARTER          | J9P0483  | OCCI INC                                   | 10/22/99 | 653694.6    | 7.00  | \$45,758.62    | 7.00%   | \$87,323.50    | 13.36% | 6.36% | \$41,564.88    |
| MONTGOMERY      | J3I0581  | APAC MISSOURI                              | 10/22/99 | 2445100.2   | 14.00 | \$342,314.03   | 14.00%  | \$342,009.09   | 13.99% | 0.00% | \$0.00         |
| RALLS/PIKE      | J3P0580  | CHESTER BROSS CONST/CB EQUIP INC           | 10/22/99 | 2277498.05  | 9.00  | \$229,010.88   | 10.06%  | \$286,015.88   | 12.56% | 2.50% | \$57,005.00    |
| RANDOLPH        | J2P0489  | CHESTER BROSS CONST/CB EQUIP INC           | 10/22/99 | 13362313.59 | 10.00 | \$1,264,438.30 | 9.46%   | \$1,467,657.40 | 10.98% | 1.52% | \$203,219.10   |
| GRUNDY          | J2P0394  | EMERY SAPP & SONS                          | 12/10/99 | 2420996.48  | 13.00 | \$315,800.34   | 13.04%  | \$254,181.28   | 10.50% | 0.00% | \$0.00         |
| CASS            | J4X1321  | APAC MISSOURI INDEPENDENCE DIV             | 12/10/99 | 83042.34    | 8.00  | \$6,643.38     | 8.00%   | \$5,779.52     | 6.96%  | 0.00% | \$0.00         |
| ANDREW          | J1P0627B | ILLINOIS VALLEY PAVING                     | 12/10/99 | 9178979.48  | 7.00  | \$653,309.35   | 7.12%   | \$677,954.97   | 7.39%  | 0.27% | \$24,645.62    |
| CALLAWAY        | J5P0703  | APAC MISSOURI RICHARDSON BASS              | 12/10/99 | 2551136.22  | 12.00 | \$306,216.10   | 12.00%  | \$331,489.95   | 12.99% | 0.99% | \$25,273.85    |
| SALINE          | J2I0631  | CHESTER BROSS CONST/CB EQUIP INC           | 12/10/99 | 8642419.68  | 8.00  | \$966,936.53   | 11.19%  | \$1,823,952.13 | 21.10% | 9.92% | \$857,015.60   |
| JASPER          | J7I0673  | APAC MISSOURI MASTERS JACKSON              | 12/10/99 | 3050765.96  | 15.00 | \$457,615.00   | 15.00%  | \$458,511.46   | 15.03% | 0.03% | \$896.46       |
| ST CLAIR        | J7P0428F | ILLINOIS VALLEY PAVING                     | 12/10/99 | 5372940.42  | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| DUNKLIN         | J0S0784  | GIRARDEAU CONTRACTORS                      | 12/10/99 | 0           | 0.00  | \$0.00         | 0.00%   | \$32,027.50    | 0.00%  | 0.00% | \$32,027.50    |
| CASS            | J4S0980  | EMERY SAPP & SONS                          | 12/10/99 | 983461.42   | 10.00 | \$98,499.37    | 10.02%  | \$95,908.19    | 9.75%  | 0.00% | \$0.00         |
| CALDWELL/DEKALB | J1P0764  | APAC MISSOURI                              | 12/10/99 | 3694039.56  | 10.00 | \$375,068.06   | 10.15%  | \$375,408.06   | 10.16% | 0.01% | \$340.00       |
| HENRY           | J4P0933F | ILLINOIS VALLEY PAVING                     | 12/10/99 | 14411970.88 | 8.00  | \$1,607,197.35 | 11.15%  | \$1,633,422.18 | 11.33% | 0.18% | \$26,224.83    |
| RIPLEY          | J9P0428  | ROBERTSON INC BRIDGE & GRADING DIV         | 01/21/00 | 1754553.92  | 7.00  | \$123,981.36   | 7.07%   | \$120,341.53   | 6.86%  | 0.00% | \$0.00         |
| HOWARD          | J5P0134B | EMERY SAPP & SONS                          | 01/21/00 | 3686688.34  | 4.00  | \$147,821.54   | 4.01%   | \$271,987.20   | 7.38%  | 3.37% | \$124,145.66   |
| DENT            | J9P0291B | JEFFERSON ASPHALT COMPANY                  | 01/21/00 | 2133713.06  | 10.00 | \$217,570.40   | 10.20%  | \$207,741.30   | 9.74%  | 0.00% | \$0.00         |
| DUNKLIN         | J0S0620  | ROBERTSON INC BRIDGE & GRADING DIV         | 01/21/00 | 584185.11   | 7.00  | \$71,901.99    | 12.31%  | \$33,011.44    | 5.65%  | 0.00% | \$0.00         |
| ST CLAIR        | J7P0428D | JENSEN CONSTRUCTION COMPANY                | 01/21/00 | 4395827.9   | 6.00  | \$285,099.49   | 6.49%   | \$289,151.90   | 6.58%  | 0.09% | \$4,052.41     |
| CARTER          | J9P0282D | JH BERRA CONSTRUCTION                      | 01/21/00 | 6573000     | 4.00  | \$263,511.55   | 4.01%   | \$263,511.55   | 4.01%  | 0.00% | \$0.00         |
| ST FRANCOIS     | J0P0679  | ROBERTSON INC BRIDGE & GRADING DIV         | 01/21/00 | 1101594.58  | 11.00 | \$127,238.01   | 11.55%  | \$102,659.25   | 9.32%  | 0.00% | \$0.00         |
| PEMISCOT        | J0P0600C | RL PERSONS CONSTRUCTION                    | 01/21/00 | 2944357.44  | 11.00 | \$423,779.75   | 14.39%  | \$403,234.21   | 13.70% | 0.00% | \$0.00         |
| CAPE GIRARDEAU  | J0P0806  | HILLSIDE GARDENS                           | 01/21/00 | 52206       | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| CHRISTIAN       | J8S0459  | LEO JOURNAGAN CONSTRUCTION                 | 02/18/00 | 353987.59   | 6.00  | \$57,588.60    | 16.27%  | \$61,503.60    | 17.37% | 1.11% | \$3,915.00     |
| ST FRANCOIS     | J0P0592  | GOODWIN BROS CONSTRUCTION                  | 02/18/00 | 5495445.38  | 13.00 | \$738,500.00   | 13.44%  | \$749,863.09   | 13.65% | 0.21% | \$11,363.09    |
| CASS            | J4P1357  | CHESTER BROSS CONST CO/CB EQUIPMENT INC    | 02/18/00 | 9480676.19  | 13.00 | \$1,351,586.60 | 14.26%  | \$1,938,614.60 | 20.45% | 6.19% | \$587,028.00   |
| WEBSTER         | J8I0655  | LEO JOURNAGAN CONSTRUCTION                 | 02/18/00 | 1208875.08  | 9.00  | \$112,359.00   | 9.29%   | \$129,850.94   | 10.74% | 1.45% | \$17,491.94    |
| NODAWAY         | J1P0641B | LOCH SAND AND CONSTRUCTION                 | 02/18/00 | 3959840.36  | 12.00 | \$528,818.00   | 13.35%  | \$600,667.48   | 15.17% | 1.81% | \$71,849.48    |
| CAPE GIRARDEAU  | J0U0616  | PENZEL CONSTRUCTION COMPANY                | 02/18/00 | 662847.12   | 12.00 | \$79,541.50    | 12.00%  | \$95,360.27    | 14.39% | 2.39% | \$15,818.77    |
| CAPE GIRARDEAU  | J0U0321G | TRAYLOR BROS                               | 02/18/00 | 53766177    | 5.00  | \$2,688,500.00 | 5.00%   | \$2,698,593.00 | 5.02%  | 0.02% | \$10,093.00    |
| COLE            | J5U0441M | JC INDUSTRIES INC                          | 02/18/00 | 1287782.28  | 10.00 | \$134,302.87   | 10.43%  | \$133,996.12   | 10.41% | 0.00% | \$0.00         |
| MONITEAU        | J5P0759  | HALL & RILEY QUARRIES & CONST/HALL & RILEY | 02/18/00 | 2558190.95  | 6.00  | \$311,664.97   | 12.18%  | \$311,664.97   | 12.18% | 0.00% | \$0.00         |
| DOUGLAS         | J9S0290  | APAC MISSOURI                              | 02/18/00 | 469841.69   | 10.00 | \$47,912.20    | 10.20%  | \$49,090.78    | 10.45% | 0.25% | \$1,178.58     |
| BARTON          | J7P0687  | APAC MISSOURI MASTERS JACKSON              | 03/17/00 | 366768.67   | 11.00 | \$66,756.00    | 18.20%  | \$66,772.12    | 18.21% | 0.00% | \$16.12        |
| MARION          | J3S0369  | HARRY H HOUF & SONS CONTRACTORS            | 03/17/00 | 773572.24   | 8.00  | \$72,686.76    | 9.40%   | \$77,178.76    | 9.98%  | 0.58% | \$4,492.00     |
| TANEY           | J8P0609C | LEO JOURNAGAN CONSTRUCTION                 | 03/17/00 | 1328124.84  | 7.00  | \$108,120.30   | 8.14%   | \$79,452.42    | 5.98%  | 0.00% | \$0.00         |
| CAMDEN          | J5P0347D | EMERY SAPP & SONS                          | 03/17/00 | 3993415.51  | 7.00  | \$304,030.10   | 7.61%   | \$392,067.61   | 9.82%  | 2.20% | \$88,037.51    |
| CARROLL         | J2S0393  | EMERY SAPP & SONS                          | 03/17/00 | 1411518.41  | 13.00 | \$183,616.86   | 13.01%  | \$170,331.04   | 12.07% | 0.00% | \$0.00         |
| NEWTON          | J7P0686  | APAC MISSOURI MASTERS JACKSON              | 03/17/00 | 435900.29   | 11.00 | \$48,666.00    | 11.16%  | \$50,855.87    | 11.67% | 0.50% | \$2,189.87     |
| HOWELL          | J9S0272  | HR QUADRI CONSTRUCTION                     | 03/17/00 | 2060650.02  | 8.00  | \$185,780.98   | 9.02%   | \$184,348.68   | 8.95%  | 0.00% | \$0.00         |
| CARROLL         | J2P0392  | EMERY SAPP & SONS                          | 03/17/00 | 684188.62   | 10.00 | \$68,679.74    | 10.04%  | \$78,091.63    | 11.41% | 1.38% | \$9,411.89     |
| MARION          | J3P0413B | APAC MISSOURI INC                          | 04/21/00 | 5552982.71  | 11.00 | \$618,133.15   | 11.13%  | \$171,230.25   | 3.08%  | 0.00% | \$0.00         |
| CAPE GIRARDEAU  | J0S0786  | PENZEL CONSTRUCTION COMPANY                | 04/21/00 | 1009399.81  | 6.00  | \$60,876.00    | 6.03%   | \$60,876.08    | 6.03%  | 0.00% | \$0.08         |
| MONTGOMERY      | J3P0484  | SIERRA BRAVO INC                           | 04/21/00 | 1380576.19  | 8.00  | \$231,598.05   | 16.78%  | \$38,749.25    | 2.81%  | 0.00% | \$0.00         |
| STONE           | J8P0452C | DAVE KOLB GRADING INC                      | 04/21/00 | 2825982.47  | 8.00  | \$232,386.30   | 8.22%   | \$231,453.30   | 8.19%  | 0.00% | \$0.00         |
| JASPER/NEWTON   | J7S0698  | SPROULS CONSTRUCTION INC                   | 04/21/00 | 493091.1    | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| DOUGLAS         | J8O0001  | BURK BRIDGE COMPANY                        | 04/21/00 | 397686.8    | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| PUTNAM          | J2P0397  | WL MILLER COMPANY                          | 04/21/00 | 363277.3    | 5.00  | \$37,150.00    | 10.23%  | \$10,531.35    | 2.90%  | 0.00% | \$0.00         |
| COLE            | J5P0771  | APLEX INC                                  | 05/19/00 | 83139.5     | 0.00  | \$83,139.50    | 100.00% | \$1,200.00     | 1.44%  | 0.00% | \$0.00         |
| LA FAYETTE/RAY  | J4P1102C | EDWARD KRAEMER & SONS INC                  | 05/19/00 | 20793709.85 | 11.00 | \$2,293,457.00 | 11.03%  | \$2,266,478.02 | 10.90% | 0.00% | \$0.00         |
| CASS            | J4S1305  | INDUSTRIAL EXCAVATING & EQUIPMENT          | 05/19/00 | 1397227.02  | 12.00 | \$283,802.00   | 20.31%  | \$291,922.65   | 20.89% | 0.58% | \$8,120.65     |
| AUDRAIN         | J3P0630  | APAC MISSOURI INC                          | 05/19/00 | 947071.22   | 10.00 | \$94,709.94    | 10.00%  | \$92,709.94    | 9.79%  | 0.00% | \$0.00         |
| BUCHANAN        | J1U0629  | IDEKER INC                                 | 05/19/00 | 6630563.06  | 12.00 | \$796,034.32   | 12.01%  | \$868,198.33   | 13.09% | 1.09% | \$72,164.01    |
| FRANKLIN        | J6P1325  | JRW CONSTRUCTION                           | 05/19/00 | 624093.97   | 12.00 | \$76,584.00    | 12.27%  | \$75,583.18    | 12.11% | 0.00% | \$0.00         |
| WEBSTER         | J8S0392  | SIERRA BRAVO INC                           | 05/19/00 | 1256964.22  | 7.00  | \$90,360.97    | 7.19%   | \$89,392.37    | 7.11%  | 0.00% | \$0.00         |
| CAPE GIRARDEAU  | J0I0550  | GAINES CONSTRUCTION                        | 06/16/00 | 2384340.43  | 8.00  | \$213,118.15   | 8.94%   | \$245,153.17   | 10.28% | 1.34% | \$32,035.02    |
| WRIGHT          | J8P0678  | BURK BRIDGE                                | 06/16/00 | 294324.31   | 11.00 | \$32,500.00    | 11.04%  | \$2,000.00     | 0.68%  | 0.00% | \$0.00         |
| MARION          | J3P0638  | CHESTER BROSS CONST CO/CB EQUIPMENT        | 06/16/00 | 67536.5     | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| HOWELL          | J9U0366B | HR QUADRI CONSTRUCTION                     | 06/16/00 | 7385951.6   | 5.00  | \$373,849.76   | 5.06%   | \$362,691.00   | 4.91%  | 0.00% | \$0.00         |
| CARTER          | J9P0282  | MILLSTONE BANGERT INC                      | 06/16/00 | 9345168.89  | 0.00  | \$0.00         | 0.00%   | \$61,882.39    | 0.66%  | 0.66% | \$61,882.39    |
| DENT            | J9S0268  | VIEBROCK CONSTRUCTION & EQUIPMENT          | 06/16/00 | 547531.25   | 6.00  | \$46,602.00    | 8.51%   | \$46,602.00    | 8.51%  | 0.00% | \$0.00         |
| LINCOLN         | J3P0636  | MID RIVER ASPHALT INC                      | 06/16/00 | 92046.82    | 0.00  | \$0.00         | 0.00%   | \$400.00       | 0.43%  | 0.43% | \$400.00       |
| LIVINGSTON      | J2P0476C | ROBERTSON CONTRACTORS INC                  | 06/16/00 | 18093283.11 | 5.00  | \$1,068,301.89 | 5.90%   | \$1,063,027.69 | 5.88%  | 0.00% | \$0.00         |
| MARION          | J3P0637  | BOONE CONSTRUCTION CO                      | 06/16/00 | 88862.98    | 0.00  | \$88,862.98    | 100.00% | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| COLE            | J5P0774  | MCLAKE CONSTRUCTION COMPANY                | 06/16/00 | 112183.02   | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| IRON            | J9S0478  | ROBERTSON CONTRACTORS                      | 06/16/00 | 301077.84   | 0.00  | \$0.00         | 0.00%   | \$4,400.00     | 1.46%  | 1.46% | \$4,400.00     |
| COLE            | J5S0773  | SCHRIMPF LANDSCAPING                       | 06/16/00 | 79090.94    | 8.00  | \$79,090.94    | 100.00% | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| NODAWAY         | J1S0779  | LOCH SAND AND CONSTRUCTION                 | 06/16/00 | 323056.3    | 6.00  | \$20,082.00    | 6.22%   | \$23,028.50    | 7.13%  | 0.91% | \$2,946.50     |
| PEMISCOT        | J0I0801  | JW GITHENS COMPANY                         | 06/16/00 | 449733.6    | 4.00  | \$17,997.22    | 4.00%   | \$17,997.22    | 4.00%  | 0.00% | \$0.00         |
| BUCHANAN        | J1S0778  | JAMES H DREW CORP                          | 06/16/00 | 300005.94   | 7.00  | \$22,364.03    | 7.45%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| HARRISON        | J1I0780  | APAC MISSOURI INC                          | 06/16/00 | 1264132.27  | 6.00  | \$90,169.50    | 7.13%   | \$94,936.50    | 7.51%  | 0.38% | \$4,767.00     |
| BUTLER          | J0S0807  | PACE CONSTRUCTION                          | 07/21/00 | 203788.75   | 0.00  | \$0.00         | 0.00%   | \$13,247.20    | 6.50%  | 6.50% | \$13,247.20    |
| PETTIS          | J5P0775  | TASCO CONSTRUCTION                         | 07/21/00 | 279677.5    | 7.00  | \$25,377.00    | 9.07%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| STE GENEVIEVE   | J0I0812  | APAC MISSOURI INC                          | 07/21/00 | 7133319.08  | 6.00  | \$428,005.52   | 6.00%   | \$454,396.77   | 6.37%  | 0.37% | \$26,391.25    |
| OSAGE           | J5P0344  | FREESIN INC                                | 08/18/00 | 5351357.26  | 5.00  | \$281,268.40   | 5.26%   | \$297,604.65   | 5.56%  | 0.31% | \$16,336.25    |
| PEMISCOT        | J0I0809  | GIRARDEAU CONTRACTORS                      | 08/18/00 | 2745774.01  | 6.00  | \$186,142.00   | 6.78%   | \$199,628.75   | 7.27%  | 0.49% | \$13,486.75    |
| BUCHANAN        | J1I0762B | DELONGS INC                                | 08/18/00 | 283498.96   | 0.00  | \$0.00         | 0.00%   | \$0.00         | 0.00%  | 0.00% | \$0.00         |
| DENT            | J9P0291  | JEFFERSON ASPHALT COMPANY                  | 08/18/00 | 2222664.7   | 3.00  | \$69,192.00    | 3.11%   | \$69,192.20    | 3.11%  | 0.00% | \$0.20         |
| ATCHISON        | J1I0781  | APAC MISSOURI INC                          | 08/18/00 | 2040267.63  | 5.00  | \$102,900.00   | 5.04%   | \$60,277.50    | 2.95%  | 0.00% | \$0.00         |